MANITOBA PUBLIC UTILITIES BOARD

Re: TO DETERMINE MAXIMUM FEES FOR PAYDAY LOANS

Before Board Panel:

Graham Lane - Board Chairman
Monica Girouard - Board Member
Susan Proven - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
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Pages 2953 to 3218

APPEARANCES

Anita Southall	)Board Counsel
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Antoine Hacault Michael Thompson Mona Pollitt-Smith	)Rentcash Inc.
Allan Foran Lucia Stuhldreier	)Canadian Payday Loan)Association
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TABLE OF CONTENTS

LIST OF EXHIBIT

--- Upon commencing at 9:12 a.m.

THE CHAIRPERSON: Okay. Welcome back, everyone. To begin, Ms. Southall, do you want to bring us up to date and give us some indication of the schedule to complete the proceedings as far as we know right now?

MS. ANITA SOUTHALL: Good morning to the Board and -- and parties attending today. Dr. Robinson's direct examination will continue this morning followed by the cross-examination of the panel members other than Dr. Robinson. And I anticipate that will take us likely over the next two (2) days because of the number of Intervenor participants who wish to participate in cross-examination on the Coalition evidence.

Tomorrow morning we will set aside approximately an hour, possibly an hour and fifteen (15) minutes, for a number of presenters who've been asked to attend by the Board to inform the Board with respect to certain particular matters.

They include Sergeant Levasseur, who is the sergeant in charge of the Commercial Crimes Unit for the Winnipeg Police Services, also Mr. Jim Scalena, who is the Superintendent of Financial Institutions for the Province of Manitoba. He will be speaking on the issue of, as I understand it, certain questions associated with creditor insurance regulation in Manitoba currently.

Mr. Norman Glass, who is an owner of several pawn shops in the Winnipeg area and also -- as we understand it from our previous cheque cashing hearing -- the representative of the Manitoba Pawn Brokers' Association, to inform the Board on certain matters.

And finally Professor, I believe she would properly be called, Ruth Berry, who is a former Dean of Human Ecology, a retired professor and who has been performing very recently some personal bankruptcy research and will attend as a presenter to inform the Board on certain matters.

So that's the -- that's the latest, Mr. Chair.

THE CHAIRPERSON: Okay then. We should commence again with the cross-examination of Dr. Robinson.

MR. BYRON WILLIAMS: Yes, Good morning, Mr. Chairman. I thought before we got to the cross-examination of Dr. Robinson, we might finish his direct, but that would -- that's totally up to you.

THE CHAIRPERSON: Oh, I think you are probably right, Mr. Williams.

MR. BYRON WILLIAMS: And I -- I wanted to actually screw up the schedule just slightly. On

Thursday, I believe, Dr. Buckland made three (3) Undertakings to the Board, and he's in a position to report back to the Board. He's been diligently -- I think he flew to Britain on the weekend just to do a bit of research on this subject, or -- or perhaps not.

But, we've -- what I'm going to do, with the permission of the Board, and -- is there are four (4) documents that Dr. -- Dr. Buckland has prepared in response to the requests of the Board. And I would ask that -- that those be -- they've been distributed to Intervenors, and we'd like to distribute them to the Board as well.

The first would be a letter dated September 15th to Mr. Byron Williams from Dr. Buckland.

MS. ANITA SOUTHALL: This would be Coalition-28 for the record.

--- EXHIBIT COALITION-28: Letter dated September 15th to Mr. Byron Williams from Dr. Buckland

MR. BYRON WILLIAMS: The second would be a two (2) page document dated December 14th, "Summary on UK Home Credit, Doorstop Lending."

MS. ANITA SOUTHALL: And for the record,

Coalition-29.

--- EXHIBIT COALITION-29: Two (2) page document dated December 14th, "Summary on UK Home Credit, Doorstop Lending"

MR. BYRON WILLIAMS: Mr. Chairman, it may be that we're short a couple copies of that, so I'll just -- I will check with My Friend, Ms. McCandless, but there are -- we'll ask it be -- be distributed. Just one second please.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: We'll ask that it be marked as Number 29. And we'll -- we'll run back and get some additional copies for the -- for the Intervenors. I apologize for that oversight.

And the third document would be a document titled "Family Unit Mortgage and Non-Mortgage Debt." It's a one (1) page document.

MS. ANITA SOUTHALL: And for the record, Coalition-30.

--- EXHIBIT COALITION-30: One (1) page document titled "Family Unit Mortgage and Non-Mortgage Debt"

MR. BYRON WILLIAMS: And the fourth should be a four (4) page document starting with a -- it looks like a net present value calculation and with a couple of charts and -- and an additional table, which I'd suggest be marked as Coalition Number 31.

--- EXHIBIT COALITION-31: Four (4) page document starting with a net present value calculation and with a couple of charts and an additional table

THE CHAIRPERSON: Very good, Mr. Williams.

MR. BYRON WILLIAMS: And what I'm going to do, Mr. Chairman, to a certain degree the documents speak for themselves, but I'm going to ask Dr. Buckland just to provide a very -- referring to Coalition-28 -- an overview.

And then there's a couple of comments with regard to one (1) additional exhibit that I will ask him to make as well.

COALITION PANEL:

WAYNE SIMPSON, RESUMED
CHRIS ROBINSON, RESUMED
JOHN OSBORNE, RESUMED
JERRY BUCKLAND, RESUMED
ANITA FRIESEN, RESUMED
TOM CARTER, RESUMED

CONTINUED EXAMINATION-IN-CHIEF BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: So, Dr. Buckland, if you could take us through what you -- the letter and kind of the overview of what you've done, if you would.

DR. JERRY BUCKLAND: Thank you very much, and good morning Board Members and Board Chair Lane.

I was asked to look into three (3) questions, which I tried to do with the assistance of a research assistant, particularly on the doorstep lending question. And I'd like to just summarize the results from my research.

The first question was: Are door step lenders in the UK regulated? And with the assistance of my research assistant, we -- we did a very brief summary look at doorstep, or otherwise known as "home credit."

I understand this to be a system where -- where the agent comes to the door of the -- the home and provides credit and also comes to -- to gather repayment. The agent for the home credit company is paid a commission.

I was asked to look at the question of regulation, and my understanding is that in the UK these companies are regulated through Consumer Protection Regulation.

These regulations are currently being revised and now include licensing plus regulations on fair disclosure of fees and on the contract materials given to the client.

I do not believe that home credit is subject to a fee cap. So that was the first question, and there's an attached document -- two (2) page document -- that gives a little bit more detail on that.

The -- the second question was in relation to my Slide 9 in my direct presentation on Thursday, which looked at household debt in Canada.

As you recall, I was drawing on some statistics from a Stats Can based study that pointed out that household debt, as a proportion of disposal income, was rising from 1980 through 2000 -- the last year was 2005.

And the question Chairperson Lane asked me was: How has the -- the mortgage compared to the non-mortgage debt changed in that period?

I was unable to get data for all the -- the time frame, the 1980 through 2005. I can do so if I'm given more time. It would probably -- it will take more digging and possibly a request to Stats Can.

However, I did get data for 1999 and 2005, which is from the survey for financial security, which we -- we know of here, particularly in reference to Dr. Simpson's presentation on the -- the payday loan use question.

So, those are two (2) data points. So -- so to answer in a -- in a kind of a brief way, the propor -- the mortgage, as a proportion of total household debt in 1999, if you look at Table 1 at the top of page 2, the mortgage debt amounted to $398 million.

The total debt amounted to $515 million, roughly. So that the proportion in 1999 of mortgage to total household debt was 77.4 percent.

The other year for which I have data is 2005, where you see the mortgage amount amounted to $572 million, roughly, for a total -- over a total household debt of $760 million. So this works out to be 75.3 percent, the mortgage debt of total debt.

So between those two (2) years, the percentage of mortgage debt actually declined slightly.

So that's just two (2) data periods. And again, if you're interested in more thorough data, I can certainly look into that, but it -- it might take a little bit of time to -- to collect that.

THE CHAIRPERSON: That is fine, Dr. Buckland. This is fine. Thank you very much.

DR. JERRY BUCKLAND: Okay. And the third question I was asked to look into was to look at the net present value calculation that I undertook to look at the -- how the household was affected by a payday loan.

And as you recall, what I did was I merged the example that Elliehausen and Lawrence had done for the consumer that borrows two hundred dollars ($200), invests it to repair their car, and then have to pay a thirty dollar ($30) fee at the end of two (2) weeks in -- in order to repay the payday loan.

And I was asked to look at that same calculation for a slightly different fee rate. And I -- as I recall, it was to look at the calculation at twenty-four dollars ($24) per hundred (100), or forty-eight dollars ($48) for a two hundred dollar ($200) loan.

So I -- I did that calculation. And once again, there's sort of two (2) ways I did it. I used the

Elliehausen and Lawrence method, which is just a one (1) cycle, one (1) loan period. And -- and I also used my blended example, where I blend Elliehausen and Lawrence, and -- and Mayer's (phonetic) approach and calculated that.

Using the Elliehausen and Lawrence method, the net present value -- if the fee was forty-eight dollars ($48) per two hundred (200) -- the net present value is minus a dollar ninety-seven ($1.97).

So, we've moved from a -- a plus fourteen dollars and fifty-five cents ($14.55) under the Elliehausen and Lawrence original example to now a -- a minus figure.

So right -- if we use those fees, and -- and we accept Elliehausen and Lawrence's example, then it doesn't really make sense for this particular household to invest -- or sorry, to -- to borrow that money. And instead they should just take the bus for two (2) weeks, basically.

Using my method, similar results occur for the first loan period. There's a minus three dollar ($3) net present value, so it's a little bit higher than what Elliehausen and Lawrence get. But then the -- the negative numbers increase.

So after two (2) cycles -- or one (1) loan and one (1) repeat loan -- if you recall, I was saying you take the payday loan and you can't repay it on the repayment deadline. So you're able to arrange to hold off the payment of the principal for another two (2) weeks and make another fee payment in -- in another two (2) weeks.

If that's the case, then the net present value is minus fifty dollars ($50), which is again lower than the original example.

If you go through three (3) cycles, it's minus ninety-eight dollars ($98), and four (4) cycles, it's minus a hundred and forty-five dollars ($145).

So the -- the sort of summary of my exercise is that the higher fee makes the investment less beneficial for the household.

THE CHAIRPERSON: Thank you, Dr. Buckland.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Dr. Buckland, just in terms of one additional point. If you could turn to what is Exhibit Coalition-29, "Summary on UK Home Credit Doorstop Lending."

If I'm right, at the bottom of page 1 you conclude that there's no fee cap regulation on home credit lending. Is that right, sir?

DR. JERRY BUCKLAND: That's correct.

MR. BYRON WILLIAMS: I wonder if you could go -- turn to table -- page 2 of that document and summarize the discussion that the UK Competition Commission has had in this area, please.

DR. JERRY BUCKLAND: Yes, okay. The -- the UK Competition Commission is -- or was -- undertaking a study of what they call "home credit." And so what we've done in this very brief summary is to sort of highlight a couple of the key points.

So if I could just read these points:

"The UK Competition Commission is an independent public body with a mandate that includes ensur -- ensuring healthy competition between companies by investigating and remedying impediments to competition in mergers, markets, and regulatory affairs.

A recent investigation by the Commission found that for loans up to fifty-five (55) week term, which is the most common loan per -- period, the total charge for home credit is generally between forty (40) and eighty

(80) pounds on a hundred dollar ($100) loan -- a hundred (100) pound loan. Weekly repayments for a loan this size vary between one pound fifty (1.50) and five (5) pounds. Annual percentage rates, APRs, vary from 150 to 500 percent.

The Commissions findings led to -- led them to conclude that prices of home credit are higher than competitive levels and that large home credit corporations were earning [and I quote] 'substantially and persistently in excess of the cost of capital' [end of quote].

According to the Commission, this conclusion applies especially to Provident Financial -- a home credit company that represents 60 percent of the home credit market by most measures -- but can also be said of other large lenders.

The weakness of price competition within the home credit industry was found to be due fundamentally to the

insensitivity of the customers to
prices as well as the failure of
lenders to compete on price. Overall,
they found that [and I quote] 'the
evidence suggests home credit customers
are paying an unacceptably high price
for this form of credit.' [end of
quote]."

MR. BYRON WILLIAMS: Thank you, Dr. Buckland. Dr. Robinson, before going to finishing your direct evidence you -- in our discussion on Thursday, you had had a brief discussion about Sorensen rates, and you had undertook to do a bit of phone research and clarify what you understood to be their practices in charging.

If you could summarize that very briefly, sir.

DR. CHRIS ROBINSON: Right. Thank you. Good morning Board Chairman Lane, Board Members Gerrard and Proven. Thank you for having me back again, and just out of the snowstorm in Toronto, for which I had to change my flight so that I would be here.

What I said in the slide, without thinking carefully about it, was that Sorensen charges a fixed fee. Sorensen -- Sorensen charges a fixed fee plus interest; that is, it charges 22 percent plus interest.

Of course, the 22 percent is the vast bulk of the amount charged.

MR. BYRON WILLIAMS: Thank you, Dr. Robinson. We're going to move into Dr. Robinson -- back to his direct evidence. For the benefit of Intervenors and -- and the Board, the exhibits we'll be referring to, one is Exhibit 24 which is the -- the Robinson slide show.

But there are also -- it might be helpful to have at hand as well Exhibit 21, which is the one (1) pager Money Mart Form 10-Ks. That's Exhibit 21. It's a single page sheet, Money Mart Form 10-Ks. It's also PUB-B-13 if other parties are -- are looking for it.

Exhibit 23, which is "Advance America Costs." It's, again, a one (1) pager.

Exhibit 25, which I inelegantly described as a "frozen spreadsheet."

And Exhibit 26, different -- which is a three (3) page document with a -- a number of tables called -- titled, "Different Costs Volume and Fee Scenarios, Robinson Model."

So that's 21, 23, 25 and 26. And we'll just give -- I -- I hear a bit of paper rustling, so we'll just give parties a couple minutes to rustle.

And I neglected to advise the Board last

Thursday that one of my many bosses, Ms. Laurie Hunter, was in attendance in the afternoon. And if I look over my right shoulder, I believe both Ms. Desorcy and Ms. Hunter are there this -- are here this morning, so I welcome them as well.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Robinson, please proceed.

DR. CHRIS ROBINSON: Right, thank you.

First, I'd just like to return to one of the earlier slides just to keep myself and everyone else focused on what it is I'm doing; that is, what it is that the excruciating detail I'm now going take you through -- and there will be a test at the end for -- for Intervenors and Board members.

What I'm trying to do -- and this is my definition -- so I'm trying to find a just and reasonable rate for a payday lender to charge that allows and efficient lender to recover costs and earn a reasonable profit but not earn an excess profit.

We've just, in fact, heard evidence about similar investigation in -- in the United Kingdom demonstrating that, fairly conclusively, that lenders who have quite a lot of similarities to payday lenders are, in fact, earning excess rates of return.

Now, I don't have the benefit of what their methods were for determining that. And they probably had a lot more data, because they were probably able to get data directly from the firms, which I cannot.

But nonetheless that is what I will be trying to achieve, is to demonstrate where, if any, there are excess profits and what I think would be a reasonable balance between the interests of consumers and the payday lending industry. And you will recall that I said this is not a story about rapacious lenders; it's a story about a business.

So I just wanted to -- to remind us because, you know, it all gets very, you know, technical and so on now, but this is what's underlying it.

And had I, you know, thought in the right order and done everything right, I would have had that at the beginning of my other papers, like ACORN and so on. But, you know, I was still determining how I was doing it.

So, now, where were we? This is interesting. Okay, I've got the wrong file.

THE CHAIRPERSON: Dr. Robinson, it should be --

DR. CHRIS ROBINSON: Yeah.

THE CHAIRPERSON: The title at the top should be "How Do We Determine a Just and Reasonable Rate?" And then "Robinson's Analysis in Excruciating Detail".

DR. CHRIS ROBINSON: Yes, I know. And, there, sorry, wrong file. There. Okay.

As I said, well, I'm not an expert in computer software. I failed to -- to delete an earlier draft of this. That's why there are only twenty (20) instead of thirty-five (35) slides.

Okay. So we're going to take a look at the spreadsheets. Now, there are -- what I've got is two (2) captures of spreadsheets. One (1) of them is very simple. The other is one -- that is what I'm using to run many different variations.

So the third item you have, which is a series of simpler tables summarizing a whole bunch of things, is the result of what I get out of the spreadsheet when I try different assumptions -- different variations on costs or rates or whatever.

So what I'm going to do is show you how the spreadsheet works and what is underlying what I'm doing so that everybody understands what is -- you know, what is basically at -- at stake here, and then discuss some of the variations when -- when everybody understands what it is that I'm, you know, how I've been getting there.

So I invite the Board members to -- to ask questions. This is a case of where I have to explain it so that everybody understands. So it's not a case of somebody's not smart enough to understand. It's a case of, am I smart enough to explain it?

Okay, so it's very important that you should ask instead of assuming that -- that, Well, it must be obvious, and I just don't understand because I haven't figured this out. It's the other way round.

The eminent Myron Gordon used to ask the absolute dumbest questions of some of the most eminent finance people when they were visiting university of Toronto, and the rest of us didn't have the nerve to ask these questions. But it always turned out he was asking the questions the rest of us thought we were too ashamed to ask.

But that didn't bother him. He wanted to know. So, ask. Okay? I will -- and I'll do my best to -- to answer so that -- so we all understand what's going on.

Okay, so this is the key spreadsheet. Now --

MR. BYRON WILLIAMS: And if I -- Dr. Robinson, I'm just going to interrupt from time to time just to make sure that we're all on this -- the correct page. This would be Coalition-25.

DR. CHRIS ROBINSON: Okay. Now can you -- now you may want to just read this. This -- where it is right now, okay? Well, actually no, it isn't there, because I changed it while I was fooling around.

So, this is not going to look exactly the same as the one -- it's all the same lines. This is not going to look the same as the one that you have, because this is the power of the spreadsheet. I can change it.

Oh damn, did it again. Sorry. It's identical except for one (1) thing.

(BRIEF PAUSE)

DR. CHRIS ROBINSON: There we are finally, sorry.

So this is your -- this is your Exhibit 25. That's the problem with doing these things, you see. You want to do many different variations. And while I can keep track of what I'm doing, it makes it really confusing for anybody else.

Now, can you read that? No? Okay, so

we're going to read it off this.

MR. BYRON WILLIAMS: Yeah.

DR. CHRIS ROBINSON: All right. I will then blow up parts of this when I'm actually demonstrating things that are going on.

But first what we're doing, and -- first what we're doing here is we're looking at -- first what we're doing here is we're looking at sections.

So, down here I have -- if you like, what I have is inputs first. Okay? So we have things like the volumes of loans, set of rules about what the revenue will be, and so on.

However, the most important piece of all is in boldface. And it's at -- it's line 49, so it's down the page. So you'll see a hundred and ten thousand dollars ($110,000) there. It says: "Excess Profit," okay? Right here.

Now this is the -- this is it. This is what all the rest of the spreadsheet is about. In other words, we have to be very clear what "excess profit" means. It's excess, not just profit.

A company that is showing a zero profit here would ordinarily be showing by accounting measures, which admittedly are somewhat elastic, would admit -- would be showing a positive profit, because it would be earning money to pay its cost of capital.

But I, just like Ernst & Young and Deloitte & Touche, treat the cost of capital as an expense. Jut a convenient way of doing it. Okay? You could do it either way. It -- it can be displayed somewhat more easily when you're talking to a group of people.

And so this -- our objective here is to get excess profit essentially to zero. And everything else we put in has to have some basis of determination. And, of course, I've already been explaining some of those bases, and there are papers on them and so on.

But the other thing that we're doing at the same -- at the same time to get there -- once I've put in all my costs, put in my revenue structure, built the model, then right here, the fee schedule is what I fiddle around with.

Some of these numbers are determined externally, but these numbers -- okay -- so the horse is right here. Dol -- X dollars per Y dollars -- sorry, X percentage for Y dollars, 17 percent on the first two fifty (250), 12 percent on the next two fifty (250), okay, up to five hundred (500). And then 1 percent on everything remaining up to the limit of fifteen hundred (1500). Okay? So when I want to change a fee schedule to see, does that fee schedule work -- and I'll show you this in a little bit -- I change those numbers. And then the spreadsheet changes.

But the number I'm looking at is the excess profit. And I want to look and see, does the excess profit go to zero? Okay? So I mean you do the -- do some fee schedules here.

I mean, suppose I were to put in -- suppose I was to redo this -- as -- as I have in the past -- and do this using APRs, you know, just using an actual interest rate, and put it to the rate that -- put it to the criminal rate of interest, 60 percent. So that would be a lot.

That wouldn't be 60 percent of the principal, that would be 60 percent per annum. Well, the excess profit would be a huge negative number. I've never actually tried it, but I mean it would be enormous. We know that that's not possible. So what we're trying to do is get a lot closer in the fees. Okay?

So that's ultimately how everything works here. So let me explain a little bit of the details. There are things in here that have been -- I mean, I've been doing the same sort of modelling all along with my reports. Okay.

I get -- keep getting better data and

changing -- so I can change my conclusions and be more precise and more con -- more comfortable with the conclusions. But it's the same method always.

So one thing which you've not seen elsewhere -- and there's a reason why, for example, Dr. Clinton's work doesn't -- isn't valid is because you have to have a distribution of loan size. Okay?

That is different fee structures will give you a different fee for different loans. So you can't just say -- unless you're going to go to a fee structure which is only a fixed percent, you can't say, I'll take an average three hundred dollar ($300) loan, multiply it by 35 percent, and that will tell me what revenue is, because that isn't what's actually happening in real life.

In various spreadsheets I've, for example, modelled Rentcash and modelled Money Mart specifically. So I can give you an estimate of where their revenue is coming from -- which -- which classes -- which sizes of loans, so you can get a more accurate picture of what a regulatory change will do.

As I said, this wouldn't matter if it's a fixed percent. But I'm recommending a -- a sliding scale, so I have to have this distribution.

Now, to get this distribution, our

mathematical ways of being cute and making -- you know, what you do is you assume it's a normal distribution. Turn it discreet. You don't really want to know all this.

Let's just assume there are some mathematical ways of doing it, none of which are really particularly important. What I did was I fiddled with these numbers -- these percentages. So clearly, here's around the average loan size, right, in here.

MR. BYRON WILLIAMS: And you're pointing to the three hundred (300), Dr. Robinson?

DR. CHRIS ROBINSON: Yeah, pointing to the three hundred (300) -- three fifty (350). Okay.

Three fifty (350) seems to be -- and we get quite a bit different evidence, and it changes over time. But three hundred (300) -- I think Ernst & Young was originally two seventy-nine (279), but we've had a few years of -- of inflation. We see three fifty (350) elsewhere. Different firms have different loans.

So what I did instead was I make the comments -- this is what we call a "discreet normal," sort of, slightly skewed.

I put the biggest weighting right here. And of course, the weights have to add to one (1) -- to 100 percent. And I have to do them so that they get to a reasonable average loan size.

This is where you could get mathematical. I could actually put it in and say I want it to be three fifty (350), do it somewhere else and get it exactly, but it wouldn't actually be anymore useful.

And so, in fact, the particular weighting scheme I chose comes out to the average loan size, I'm assuming, is three hundred and forty-five dollars and fifteen cents ($345.15).

MR. BYRON WILLIAMS: And that would be the ext -- on line -- line 6, the extreme right-hand number. Is that right?

DR. CHRIS ROBINSON: Yes. The extreme right-hand.

MR. BYRON WILLIAMS: Okay. Thank you.

DR. CHRIS ROBINSON: And I will -- and then below that, the next line is just che -- is -- is used elsewhere. But also this last line, right below the three hundred and forty-five (345), you'll see a number that's 3 million. That's just checking I did the arithmetic right. Okay. So it adds up to 3 million again.

And then below that, we have -- and I have cited the number of loans as not being all that large. And, so there's the number of loans that I turn up with.

You know, in this particular case, 3 millions -- a 3 million volume, I turn out with ten thousand one hundred and ninety-six (10,196) loans. Okay?

MR. BYRON WILLIAMS: And if I could -- if I could stop you -- and I apologize for this, Dr. Robinson -- but you mentioned the figure "3 million."

In terms of the volume of loans, that's your assumption for this particular -- this frozen spreadsheet?

DR. CHRIS ROBINSON: That's the assumption on this spreadsheet. That's the assumption on the Exhibit 25. Okay?

Well, that's not really just an assumption. That's actually drawn empirically. We call it "assumptions" because you can put any number you like in here. I mean, you're -- you're free to do whatever you want with a -- with a spreadsheet like this.

The $3 million -- I'll come back to that. I'll explain the spreadsheet and will explain what some of the numbers are. Okay?

So let me go back to the left here again. So then I have a fee schedule. And the difference -- and the -- not the only, but the primary difference between what is here and Coalition -- PUB/Coalition-215 and the Coalition-1B-18-Revised is simply the fee schedule, the way that the fee schedule is structured.

So that, in fact, my conclusions have not really changed at all, except that I thought more carefully about one of the Board's questions on the first one. They said -- the Board sent me a number of questions, since they felt I had lots of spare time.

And they sent me a question: Which would be the best -- the easiest fee for borrowers to understand? Which would be the easiest fee for lenders to understand? That was the third one.

We've heard a lot of detail about, you know, it's been impressed upon me by my colleagues how difficult the fee schedules are to understand. And so I had fallen into a trap.

Because I'm a finance professor, it's easy for me to deal with any of these sort of fee schedules -- at least you'd hope it would be -- whereas it -- it isn't easy for anybody else. In fact, we've discovered it's not even easy for the staff and the lenders.

I assumed they could do anything. But it has become clear, for example, that, you know, just on a phone call to National Cash Advance -- which had just come in -- it seems they aren't using calculators. It seems they are using a preprinted table and estimating, based on that, what your loan will cost.

So we want something that's fairly simple. And so I decided that it would be better to change without, you know, not trying to change the revenue that would go to payday lenders, but just changing the format to go to a sliding scale. And so I have now a sliding scale.

There's no interest rate here. Okay, there's no 59 percent or 60 percent or so, as there was on my previous spreadsheets. What there is instead is -- and you remember -- you'll recall my recommendations -- a fixed fee for a new customer.

A fixed fee for a replacement loan, okay, roll -- in other words the rollover fee or the replacement fee, as the legislation calls it, is now fixed at ten dollars ($10). There's the big horse. Okay?

There's the -- the fee on the original payday loan that will -- where most of the money is generated. There's the replacement percentage fee, which is for each week or part thereof. There is -- so it's a -- I say percentage fee, but I'm doing it as a fraction. It's point oh one (.01), which is 1 percent.

The percentage of customers that are new, now that's not something that I'm -- I mean that's based on the sort of -- I -- I decided to make it slightly more new customers. Ernst and Young has fifteen (15) to one (1); some companies have fewer. This doesn't generate a lot of revenue, so this assumption is not critical. I may have to have one, but it doesn't actually matter a lot.

But that's -- this one is one where we're basing it on sort of what we see in the numbers, but it's not something where we're -- it's not a Board decision as to what -- what fee or, you know, how many new customers there are. This is what we think is happening. I --

MR. BYRON WILLIAMS: If I could just stop you there, Dr. Robinson. I know you're on a roll, but I just want to walk through this. Just -- if someone was looking at the transcript rather than at the --

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- the spreadsheet, the fixed fee for new customers appears on line 10. Is--

DR. CHRIS ROBINSON: Right.

MR. BYRON WILLIAMS: -- is that right, sir? And --

DR. CHRIS ROBINSON: Right, just be --

MR. BYRON WILLIAMS: -- hold on, I'm going to just run through this and you can -- and the fixed fee for replacements appears on line -- excuse -- I -- I misspoke -- line 11.

The fixed fee for replacements appears on line 12? Is that right?

DR. CHRIS ROBINSON: Yep.

MR. BYRON WILLIAMS: And -- and the -- the sliding scale, as you referred to it, appears on line 14.

Is that right?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And the replacement percentage fee appears on line 15.

Is that right?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And in terms of the percentage new customers, I see the figure zero point one (0.1). What --

DR. CHRIS ROBINSON: 10 percent.

MR. BYRON WILLIAMS: -- 10 percent, okay, thank you.

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: Please proceed.

DR. CHRIS ROBINSON: Okay, so, to think of it again, here we are. You're a new customer. What is your fee? Your fee is on this, you know, on this model -- I'm fixing or the maximum fee, of course, companies will charge the fees the way they want, but within the limits.

You charge the customer ten dollars ($10) -- for example, Rentcash's debit card -- and they borrow two hundred and fifty (250). So you multiply seven (7) -- or they borrow a hundred (100), say.

You borrow -- multiply that first hundred (100) by 17 percent. So, seventeen dollars ($17), plus ten (10), twenty-seven dollars ($27) will be their fee on that initial loan.

Next time they come in for a loan -- and we know most of them do come back -- it'll be seventeen ($17) for that hundred dollars ($100).

And that's all the spreadsheet is doing, is implementing the pre -- this spreadsheet -- this specific set number is implementing what my recommendations are right from the beginning of my evidence.

We also have to have an average loan term, and I use that -- I used to use that for calculating the fee. I don't know, but I needed to calculate certain other things respect in company. And that's an average loan term for a loan that pays off on time. Okay, so that you will see longer loan terms if a company is giving us statistics on all the loans.

MR. BYRON WILLIAMS: And by "average loan term," is that twelve (12) days?

DR. CHRIS ROBINSON: That's twelve (12) days. Yes, I guess I should of said "in days." So line 17 is the average loan term in days.

Line 18 is the average weeks that a replacement loan is outstanding. That is a number where the Intervenors are welcome to introduce different evidence if -- if they have it. I've not found it anywhere.

So this is somebody who rolls. How many additional weeks is it -- is it out? So that's twenty-eight (28) days, except I'm doing it by week, because the fee is 1 percent for every week or part thereof.

We know, of course, that some of these loans go bad. So, you know, those loans, of course, no revenue will never enter in to -- to my calculations.

And loans that pay a default fee -- now, presumably, as the market gets more sophisticated, fewer and fewer people will pay the default fee, so that I'm saying that 1 percent of the total loans -- remember something like -- some percentage of loans will go into -- will require, you know, will become replacement loans.

However, under the scheme I've got and the way the lenders are currently operating, a lot of borrowers say, I can't -- you know, I can't repay and make arrangements.

And the -- the fee schedule that I'm proposing says that such a lender -- sorry, such a borrower who, you know, who behaves -- behaves himself or herself and cooperates with the lender, then doesn't pay an extra default fee. They pay a fee for the replacement loan they've arranged.

But if they screw things up by bouncing a cheque or by not showing up -- and the evidence that the lenders have presented to us -- more than one (1) lender including -- including Mr. Slee, as I recall -- is that, in fact, you chase them down. You phone them up. You remind them before you try to deposit the cheque, because you don't really want the cheque to -- to bounce.

And so -- and that evidence also appears in -- in materials that's on -- on file with the Board in the 10-K of America Advance, which says it does this.

So, consequently, not all borrowers actually get hit with a default fee. And since we are prospective here, we don't know, given a new set of rules, how many will. I'm assuming very few will.

That is a default fee will act as the additional default fee. Remember, there's two (2) fees. Ten bucks ($10) for replacement loan, more if you -- more if you screw around and don't turn up and say, Hey, I'm sorry I can't repay. What can I do? Okay?

So, I mean, it's standard advice that you give to anybody who owes money, is if you can't pay, the first person you call is the lender -- not anybody else -- to tell them you're in trouble. And then you make arrangements.

So -- so, I'm assuming that's 1 percent of all loans. So I'm assuming that I'll collect 1 percent of all loans. But remember my horse and rabbit stew. Here's the horse, X percent per Y dollars. That generates almost all the money.

MR. BYRON WILLIAMS: And that's line 14?

DR. CHRIS ROBINSON: That's line 14. So line 14 is the line that -- changing around, this is the line that -- and this is the line for -- that all of the Intervenors have been talking about, okay.

They have not been talking about specific default fees or anything else. I've tried to make the model complete according to my recommendations. But this is the issue in terms of setting fees, is line 14, how you structure it and what are the numbers you put in it. Okay?

So now we go down to line 23. We go down to this next section, which is the cost model. Let's see if I can do it this way. Yeah, can just fit that on.

Okay, so the cost model.

Line 23 is the operating cost for a hundred dollar ($100) loan. This is the -- the operations: paying store staff, paying head office staff -- well, basically it's everything that isn't cost of capital and bad debts, I guess, is probably a better way to describe it.

I call it "operating cost." It's the cost of actually doing the work. And it is another horse. This is definitely not a rabbit. Some of the items in it, of course, could be pretty unimportant.

I'd like you now -- okay, so this -- this -- you'll notice if you got to the --

MR. BYRON WILLIAMS: And I -- you're --

DR. CHRIS ROBINSON: Yes, line 23 still.

MR. BYRON WILLIAMS: Line 23 and -- and Dr. Robinson, are you wishing the Board to refer as well to Coalition Exhibit 21, the Money Mart Costs? Are you--

DR. CHRIS ROBINSON: Yes. So I'm just going to have her point out, something -- I mean this is -- this, of course, is really for the spreadsheet geeks, okay, for Board counsel and -- and Mr. Slee and -- and so on.

I made a bet on the weekend that only Mr. Slee would take advantage of -- of my email address to ask me technical questions -- I mean technical questions solely -- and nobody took me up on the bet, and I was right. Mr. Slee did ask three (3) times.

So -- and this is one (1) of the questions he asked. He said, Where'd this come from? Now, you will notice however, okay, spreadsheet, there is no logic. For those of you who don't know what spreadsheets are, you won't know what I'm talking about.

But there is no logic here. There's just a number. This comes from elsewhere. It comes from other analytical work that I've been doing for the Board. It appears in --

MR. BYRON WILLIAMS: And --

DR. CHRIS ROBINSON: -- PUB-13 -- PUB-13, and it is in front of you as -- and is -- is it twenty-one (21)? I don't have the number.

MR. BYRON WILLIAMS: Yeah. It's Coalition Exhibit 21, and it's -- if I could just confirm, Dr. Robinson, it's PUB-B-13 from the first round.

And you've derived it -- these are calculations you've performed from Money Mart 10-Ks. Is that right sir?

DR. CHRIS ROBINSON: Well, there's two (2) pages here. One (1) is ten (10) -- Money Mart, and one (1) is Advance America, which we will come to later. But Money Mart is where the eight dollars and fifty-one cents ($8.51) comes from.

So this is work that I've been doing and refining over time. And I started working with Money Mart back originally, in fact, when I was with the -- working on Money Mart numbers, back with my report for the gov -- with -- for the federal government.

So I've kind of been through a number of iterations, but of course every year I get a new set of numbers.

And, in fact, the most recent set of numbers -- when you received Dr. Gould's submission, he was projecting from nine (9) month figures, which was more up to date. Nine (9) month 2007 figures, which was more up to date than mine, and two (2) days later, or something like that, the full year 10-K came out with all the detail.

So, I'm just continuing the process that -- that -- you know, Dr. Gould and I have been leapfrogging over each other.

Now, you will see then the operating cost per hundred (100). Okay? And this is simply my expenses allocated to payday lending on line 18, divided by the loan volume in line 17 to get dollars per hundred (100).

Really, the way I think of it is a percentage. It's just 6.12 percent of loan volume in the first column -- the boldfaced numbers in line -- in column -- in line 19. But the industry practice is to talk about dollars per hundred (100), so I'll just use that. However mathematically, it's simply a percentage.

And you'll see that the costs have been rising very rapidly, but at a declining rate. Okay? Six twelve (612) to seven oh one (701) to seven seventy-one (771) -- still following along line 19 -- to eight twenty-nine (829) to eight fifty-one (851). In fact, the climb from eight twenty-nine (829) to eight fifty-one (851) is only a 3 percent increase.

Now the temptation is to say that for some reason, the costs were rising earlier, and now they're rising at the rate of inflation. But these are -- this is a number divided by another number, both of which are rising at the rate of inflation. Okay?

The loans -- the volume of loans is also increasing at the rate of inflation. And this curve -- this -- this changing percent -- this dropping percentages of increases demonstrates very clearly two (2) points.

One (1) is the returns to scale. Money Mart is getting bigger, so its costs are increasing at a decreasing rate. But my expectation is that over time, they will actually turn down. They will actually -- dollars per hundred (100) will decrease for a while. Not very rapidly. Decrease a bit, and then at a mature industry, level out.

And the reason -- and this is the reason why Ernst & Young's work and Deloitte & Touche's work is not valid in costs -- is because you're dividing the costs for stores that have not yet reached maximum loan volume, but they'll increase -- they'll incur their costs much earlier.

That's why they lose money at first. Okay? We have seen in evidence elsewhere that -- in the speech by Gordon Reykdal of Rentcash -- that it takes eight (8) months until they break even.

But of course we don't want them just breaking even, because he's talking about accounting profit. Okay? You can't -- you know, you don't open a business just to break even. You open it to make a profit.

And so one (1), two (2), three (3) years -- I don't have it -- a clear evidence of it. It sounds, from Gordon Reykdal's speech, that at about three (3) years he would expect a Rentcash store to be mature, to be pumping out the volume it's going to get, unless something significant changes in that neighbourhood.

Consequently, you can't rely on a frozen-time figure for the costs. You have to allow for in -- in retail pilots, it's same-store sales. If you're analyzing a company, a retail company -- and these, remember I said at the very beginning, are retail companies. The way you do the analysis is, what are the same-store sales year over year?

So, if you want to know how well The Gap is doing -- and, you know, that's one (1) company I've analyzed statements for -- you don't look at the total sales volume increase. You look at the same-store sales, and they -- it's not in the annual -- it's not in the audited financial statements. But they will put out information about that in detail, analyzing same-store sales. And so then you see, instead of the -- the chain sales going up 11 percent and you say they're doing great. And then you look at same-store sales and see that the same-store sales went up 2 percent. And that's barely the rate of inflation. And it tells you they're not -- they're not growing at all. They're just opening new stores.

So the same problem is occurring for us here. And I -- I regret that Deloitte & Touche chose not to pay any attention to that issue. They, in one (1) or two (2) paragraphs, sort of admitted that it existed but didn't do anything about it. It, of course, was well known, since my report to ACORN explained this in great detail, and they had that report.

However -- so what I did -- and this, of course, can only be a -- an approximation -- but what I did was I took the number of stores. If you go down to line 23, okay, if you go down to line 23 and you take a look at the -- sorry, line 22 -- number of company-owned stores.

And of course we need number of company-owned stores. The franchisees are not included in this. Money Mart makes the money from them, but they don't include them in their loan volumes. Okay? It's very explicit in the 10-Ks.

By the way, the source of this, of course, is not in Canada; it's in the United States. That's why the conversion from US to Canadian dollars. It's in the 10-K of Dollar Financial, which owns Money Mart. I should have said that originally, but I -- I think you all know that.

Now, so here are the number of company-owned stores. Now that number is increasing very rapidly in Canada, especially from 2006 to 2007. You'll see that it went from two hundred and forty-two (242) to three hundred and sixty (360). There are some difficulties with -- or you can't attribute that to openings stores. They bought out a whack of stores. They bought out a whole bunch of their franchisees.

Just as an additional consideration for the Board, this -- when franchise -- when franchisers buy out the franchisees, it can have a number of messages. But I think the most -- the most obvious one is the commonsense one.

The franchisees are profitable. This is a great deal. You can buy them out at a premium and then, because you're running it through a chain, you can actually squeeze out more efficiency. You can do the same work for less money.

So Money Mart, by paying very substantial premiums for these franchisees -- as it records in its annual report -- is, in fact, telling us that it's making money in this market and it's worth buying more stores. And I would remind you, Money Mart has the lowest fees in the business, or at least the lowest fees of any store that I have seen.

So -- however, what I need to do then is I need to make an adjustment. So what I did was I adjusted very slightly for new stores opening. Okay? And so what I get is a slight adjustment.

So what you get here is -- here's the loan volume per store just taken from the financial statements in Canadian dollars. Line 23, loan volume per store in thousands. So these are millions -- 2 million, 2.1 million, 2.6 million, two point six (2.6), two point six (2.6).

Looks like it's -- it's sort of frozen, but it hasn't, in fact, because we're not allowing for the number of stores being opened.

So, in fact, my estimate, when I originally submitted to the Board -- I originally wrote ACORN, I was estimating it would hit 3 million. It's actually at two point six (2.6), but when adjusted for this effect -- and I can't pretend the adjustment is dead accurate.

It's not possible to do that. It would require Money Mart, which is not present at these Hearings, to actually give me even more detail. You know, but, you know, I can't complain. The 10-K is pretty -- has been pretty helpful.

And I -- so I come out with three (3) -- just over 3 million per store, is what I think the volume actually is for Money Mart.

Now, this is still an understatement. I have tended to be conservative. I told you I was telling a business story, and I have all these business degrees, and business experience, and so on.

And the tendency for an honest businessperson is to slight -- you know, to be a little conservative about all these things, because the alternative may be going bust. And so I'm tending to be conservative.

Do I actually feel it's going to go over 3 million? I think it is. I think that it -- that -- that they will end up over 3 million average per store for Canada. I don't have numbers for Manitoba. They're not appearing in front of this Hearing to give them to us. However, --

MR. BYRON WILLIAMS: Could -- could I --

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- I just stop you there? In terms of your adjusted estimate of 3 million, how does that compare to Dr. Gould's?

DR. CHRIS ROBINSON: Yes, well, I was going to come to that. Dr. Gould, you know, working three (3) months behind, said, Well it's probably 2.9 million. And, you know, you -- very difficult to choose among these.

I just like round numbers. Easier to add up. Very difficult to choose I -- I well I think I'm more accurate. I've got better -- I've got more recent data, and I've done it more -- more carefully.

But I think you see that there is, in fact, Dr. Gould and I are sort of in agreement on this point, that this is kind of the volume. I don't expect it to go -- as I had said some years ago -- to 4 or 5 million, although if we see the market collapse to two (2) or three (3) companies, it might well do. But I -- I don't think so.

We're now getting better data and, you know, more years of it and more able to judge from it. So it's now looking, this picture tells me that, you know, slight, somewhat over 3 million, but not enough to really -- it wouldn't, in my judgment, be enough to change my recommendations.

I could fiddle these numbers and change it to 3.3 million and do some changes in costs and lose everybody in the room including myself. But I don't think that I would end up changing my recommendations at all.

So that we're going to stick with this conservative number. I've demonstrated that it's about 3 million once we allow for the store, you know, new store openings. And so that's what we'll stick with.

And so now if we have that volume, we now have the operating costs per hundred (100), because you will see, okay, so that we've got an operating cost per hundred (100) on an actual volume. But we've got the projected later volume. So, of course, their operating costs will be higher as the volume rises -- I mean, the total dollar amount.

So consequently, you know, these -- these bolds are the, you know, sort of the critical numbers. These three (3) boldfaced numbers, lines 19, 21 and 23.

The one that I haven't talked about so far is a -- a small horse, a pony. Okay? And that is the loss -- loan loss rate as a percentage of loan volume, line 21. And that's just simply a division. I could actually do that in US dollars or Canadian dollars.

They break it out separately, so we can do it for Canada. The rate for Canada is lower than it is for the US. I don't know why that should be. A point I made earlier was that it isn't that this is there -- there's -- that one of the rabbits that's being called a horse is the risk due to bad debts. But look at the bad debts here.

I mean they are larger for other companies, but they're not -- and this is a fair amount of fluctuation, but over five (5) years, we only go from 1 percent to 1.65 percent. Okay, so we have a fairly narrow range.

So it's just another business cost. It is more variable than other business costs, but it is not this overwhelming cost that -- that the -- yeah, I mean, it's 1.65 as opposed to 8.51 percent. Okay, I mean that's the order of magnitude. So the risk in this business is that you don't get the volume so that your costs go down to eight fifty one (8.51).

Now, of course, I -- as I'm arguing, I'm suggesting that the eight fifty-one (8.51) is a conservative number -- is, you know, is a higher number than really, they will experience in the long run. But that's what we've got now. I didn't take an average over the years. I didn't try to adjust for inflation. I took, in fact, the highest number. Okay? My belief is that the number will turn out to be lower, but that's for another day.

Let me go briefly through where this comes from, because there may be some questions about it. And here I have to do exactly what Ernst & Young did, because what they don't do is divide their costs between payday lending and their other businesses, which are primarily cheque cashing. They can't. They're indivisible costs.

So just as Ernst & Young had to do, I had to find -- I had to do some way to allocate it. And while there are many ways you could allocate it, Ernst & Young used the percentage of revenue -- percentage of revenue from payday loans to percentage of revenue from all loans.

We have Canadian costs. We just don't have it broken down between payday loans and others. So this is what I'm doing here. You know, I'm -- I'm adding up expenses to get my operating and head office expense in US dollars, converting it with an exchange rate -- I actually don't have to do that.

I like doing it, but I didn't have to, because if I just did everything in US dollars, it just still comes out to a percentage. So it doesn't matter what the exchange rate is. I'll -- top and bottom are multiplied by it.

However, so there's the operating and head office expenses and the allocation. Okay? So, line 8, payday as a fraction of total revenue. Okay? And that is how I allocated the operating and head office expense down on line 18, expenses allocated to payday lending in Canadian millions. Okay?

So there's a hundred and thirty-five (135) up here, and now it's down to 80 million down here.

MR. BYRON WILLIAMS: Just to stop you there. A hundred and thirty-five (135), you're referring to line 13 of --

DR. CHRIS ROBINSON: Yes, line 13 is 135 million. The payday lending portion, allocated by percentage of revenue, is eighty point nine (80.9).

Just a couple of observations for the -- the Board. One is that -- and everybody this is -- this is immediately evident -- the payday lending revenue, as a percentage of the total revenue, is increasing for Money Mart in the US and in Canada.

This reflects a well-known trend away from -- to -- to a cashless society. Canada is vastly more advanced on this than the United States is. The United States is one of the slowest countries in -- in the world to get rid of cheques.

Companies in Canada that deal with all the technology that goes around processing cheques are doing all their business in the US, because there's no business left in Canada.

However, so payday lending -- cheque cashing is a declining business. Payday lending is an increasing business. And that shows in both Canada and the US.

The second thing is that unusually -- and -- and this doesn't have a critical bearing, but it means that head office expenses in Dollar Financial are not, sort, of Canada's a little bump that they sort of sometimes think about.

The Canadian operations are bigger than the US operations and more profitable. Okay? So it's an interesting fact. This is very rare in Canadian subsidiaries of an American company.

But, in fact, as we've heard a little bit of the history, Money Mart was the first player in the field. And they were bought -- Dollar Financial bought them when they were already, you know, the leader and terrifically established across Canada.

All right, so part of the reason that is important for my numbers is simply that it means that -- that the allocations matter and that there's, you know, the head office will, in fact, be devoting significant costs to Canada for Money Mart. You know, it -- it's very important to them.

Okay, so -- now are there -- does the Board have questions about this table, or should I go back to the main spreadsheet? Okay? It's -- I mean, I realize you may have -- you know, you may have questions later, but that's how I got it.

MR. BYRON WILLIAMS: I have one (1) question --

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- Dr. Robinson, and then I'll ask you to go back to the main spreadsheet.

When you look at Money Mart as a firm, you'll agree with me that it does have, first of all, on average, a high volume compared to other payday lenders?

Would that be fair?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: Would you also agree with me, as compared to some other players in the industry, it has more advantages in terms of economies of scope, given the volume of its cheque cashing business?

DR. CHRIS ROBINSON: Yes, and I will in fact demonstrate that more -- more precisely.

MR. BYRON WILLIAMS: So if I'm trying to make sense of this in terms of what the -- the costs are, and going back to your efficiency motto, this would reflect the -- the costs of an efficient, relatively high-volume firm with some economies of scope and scale.

Would that be fair?

DR. CHRIS ROBINSON: Yes, that is exactly correct. And, as we will see, therefore, these costs and volumes -- the fees that come out of those -- are as low as you could reasonably go, using the pro -- the provisions that I -- sorry, using the principle that -- that I've all ready said of what I consider to be a just and reasonable rate.

MR. BYRON WILLIAMS: Okay. And I'm going to ask you to do -- I'm presuming you're heading now to Advance America. You're going to go back to your spreadsheet for a second, Dr. Robinson?

DR. CHRIS ROBINSON: I'm going to go back to the spreadsheet, but I will come back to this -- to Advance America -- to show you another example of a firm where I have data.

And it will illuminate why I came -- because I -- I came quite late to the actual specific recommendation, as opposed to a range of recommendations I presented to the Board. And it was because of Advance America -- well, Advance America and some other evidence as well.

So I'm going to turn back to the -- the really excruciating detail.

MR. BYRON WILLIAMS: Hope -- hopefully not for too long, Dr. Robinson. You're doing great though. This is Coalition-25.

DR. CHRIS ROBINSON: Yep. Okay. Now, one of the accurate -- quite accurately criticisms made of me, of course for the ACORN report was that I didn't include regulatory cost per store.

Well, I didn't write the ACORN report for a regulatory body, and I didn't know what the regulatory cost per store would be. But, of course, it should be included.

So for this particular spreadsheet, which is, remember, 3 million. And it's assuming it's a large chain. Okay? So for this particular spreadsheet, regulatory cost per store is sixty-five hundred dollars ($6,500), plus something else I'll show you in a minute.

That sixty-five hundred (6,500) consists of two (2) parts. Part of it is very easy for me to provide evidence. That's the fifty-five hundred dollar ($5,500) registration fee.

The thousand dollars ($1,000) is -- I'm doing everything per store here, okay. I'm not modelling the company separately.

So all head office costs are wrapped into my eight dollars and fifty-one cents ($8.51) and then divided out by store.

So this is a thousand dollars ($1,000) for -- to provide for Mr. Slee and Mr. Hacault and everybody to come to Hearings and things like this.

So three hundred and sixty thousand (360,000) for Money Mart; three hundred and fifty-eight thousand (358,000) for Rentcash, given the current -- the store numbers as of a particular day. And I don't know what they are today. Okay. So that -- this is actually a substantial sum of money. Okay.

So that's what -- I'm feeling -- it's actually I'm -- I'm being a bit facetious. It's not so much -- I hope they're not attending regulatory hearings like this every year, but rather also for the costs of filling in some forms, and so on.

It's very difficult to define such a number, so I'm making an allowance for it. Remember, this spreadsheet is for the use of the Board so that you, of course, can decide what you think the number should be. You have all the evidence.

Cost to capital real equity, this is a rabbit. I'm not going to debate it. I'm using 10 percent. It must be real. It has to be real, not nominal, because we're using a single year and using -- assuming a perpetuity.

If it were nominal, we would have to do every year out. And you would really, really not like my spreadsheets, and we'd still have to come to some point where we stopped.

So this is the right way to do it. This is actual finance principles. Whether it should be 7 percent, 10 percent, 11 percent -- as Dr. Gould and I have both said -- doesn't make much difference. This is not a horse.

Cash on hand, okay, now the next few are -- I -- I'm not going to go into the details of the calculation. But line 26, line 27, loans receivable -- that's why I need a number of days outstanding, capital investment per store.

The number for Money Mart comes out at twenty-nine thousand (29,000). And I looked and I really didn't like that number. It looked too low.

Gordon Reykdal, in a speech, said it takes him about forty-five thousand (45,000) to outfit a store -- sorry, that Money Mart number was in Canadian dollars -- and I said, well, you know, who do I believe? And -- and in this particular case, I mean, maybe Money Mart is really, really cheap on their furniture. But I thought that -- that forty-five thousand (45,000) was a more reasonable number.

Initial store loss, line 29, initial store loss is something that nobody else, anywhere, has talked about -- you know, sort of incorporating in this. You don't talk about it for Manitoba Hydro, because Manitoba Hydro has been around for -- I mean, I don't know, a hundred (100) years, or something like that? Ontario Hydro is a 101 years old, I think, so Manitoba Hydro must be pretty old.

So whatever they lost back in 1923, or whatever, is not kind of relevant to setting rates today. But these are new stores, new business. And so, although nobody else has talked about it, you have to make an allowance for the fact that they invested a bunch of lost money, so to speak. You don't make the decision in the future to continue based on the money you lost.

But when setting a rate, it is my opinion that you must make allowance for that loss. And the way you make allowance is you treat it as capital, even though it doesn't appear, sort of, so explicitly as such. Ernst & Young and Deloitte & Touche did not do this, but I think it must be done. And, if you wish, then you can question -- you can ask the companies to provide evidence. I don't have any such evidence.

So looking at a store and thinking about how much its expenses would be for a year and how much revenue it might make in its first year, I thought that a hundred thousand dollars ($100,000) was a reasonable amount. Some stores will lose nothing even in their first year, will actually make a profit. This is an actual cash loss. This is not an opportunity loss I'm -- I'm recording now.

If, however, you put in an initial store loss -- I put in a line for goodwill investment per store. I don't think anybody's thought about that one either. But Money Mart was buying out -- Money Mart was bought out originally so that they paid a premium for it. That is, Dollar Financial paid a premium for Money Mart, and now Money Mart's buying back franchisees. But what they're really doing and paying a premium for is they're paying for the loss per store.

And -- and this is the other part of a takeover premium. A takeover premium incorporates all the expected future excess returns. I believe that they're -- Money Mart, in particular, is expecting excess returns, because it is the most efficient producer.

Consequently, any takeover premium that it pays is, in fact, an anticipation of future excess returns and I don't believe is allowable as a cost. So I'm excluding that.

However, the initial store loss I'm including, because somewhere along the line -- and part of the takeover premiums they paid were paying for those store losses.

So here you are, you're a franchisee. Your first year you lost a hundred thousand dollars ($100,000). Now you've got a build -- a business built. Money Mart buys it out. They're going to pay for your initial loss even though nobody's going to -- Right now we're paying you a hundred thousand (100,000) for your initial loss -- because now Money Mart doesn't have to -- and I'm saying Money Mart, but any company -- doesn't have to incur that loss.

So, per store, hundred thousand (100,000) initial loss. I bet Money Mart can open a store with less loss than anyone simply because they're so well established, but they're still going to lose money at first.

Okay, the regulatory deposit, that's the other part of the Manitoba law. It's not an expense. It's an amount of money put in, but I read carefully. Typical government, they don't pay you any interest on it. Now I'm curious as to whether they'll, in fact, accept, you know, twenty-five (25,000) in treasury bills or something instead, that -- that are still owned. But it sounds like they aren't. So consequently it's a cost.

And the last item is payables and accruals per store, something which it appears that Ernst & Young and Deloitte & Touche also ignored. But that, of course, is a source of financing. It's free in the sense that they don't charge you interest on it. It's, of course, buried in the cost of the goods, but that's already in your eight dollars and fifty one cents ($8.51).

So the total of all of these items here is the net investment per store. And that's what I'm going through all this for, is I want to get to this net investment per store in line thirty-three (33).

And you can see from the logic that's sitting up at the top there -- you probably can't read it, but I'm simply adding up all those numbers and deducting the payables and accruals. I'm assuming all equity firms, so there's no long-term debt to think about here -- no bank debt, nothing like that.

Consequently, what I've done is, in fact, what valuators do, what you do with a business plan in determining how much money am I going to need. You work out all the assets and the corresponding free capital from payables, work out what you got to put in. And then you keep on working it out for every future period, because if it's going to change, you better know about it.

So this is, you know, it's almost, if you like, a basic piece of the business plan for -- for a payday lending store. And this is very -- this is very routine stuff, even though you won't have -- have seen it perhaps in this form.

And so this net investment per store then gets multiplied by the cost of capita. And it becomes an expense per store, including head office costs. Now, notice back here, cash on hand, for example. Cash on hand, I'm assuming they need five (5) days. This looks reasonable.

Actually, I tried to -- I tried to do both payables and cash on hand by using actual numbers for Money Mart and Advance America. But, unfortunately, working capital is a very, you know, kind of moves around a lot.

And so results I get are sufficiently dramatically changing from year to year and between the companies, that I can't really give a good rate. I can't, you know, say, Here's the number, let's use this.

This is my experience. A business like this would need not a lot of days of cash because they're dealing in cash; it's coming in quickly. They don't have inventory.

And the payables and accruals, likewise, this is an approximation in mul -- it's multiplied by the total operating costs, which are further down here, on line 45.

So these numbers in this section will change every time I change the revenue so that they are, of course, smaller for smaller stores, larger for larger stores. Not the initial store loss, not the regulatory cost, but these -- this net investment stuff, it will change.

MR. BYRON WILLIAMS: Can you tell us about line 34 and why you use the --

DR. CHRIS ROBINSON: I'm sorry. Okay. I have not gotten to that yet.

MR. BYRON WILLIAMS: -- the assumption of 3 percent?

DR. CHRIS ROBINSON: Oh, no, I'm coming -- coming, don't worry. I'm an accountant, right, very linear, can't -- can't think sideways.

Now, okay, line 34 is the bad debt rate of loans. So this is our, you know, this is our pony. Okay? Eight dollars and fifty-one cents ($8.51) is the horse, and the bad debt rate for loa -- on loans is the pony. It is important.

Now, I'm using 3 or 3 ½ percent for most of my work. Money Mart is far below that. Ernst & Young -- and I'm now repeating evidence that I've given, that I've shown elsewhere.

Ernst & Young, in its work, found many companies had very low loan loss rates and few had high. They had one 14.1 percent and, if I recollect correctly, they said that guy went out of business. At 14.1 percent bad debt rate, I think, you know, anybody would go out of business.

This is as a percentage of the loan volume, not as a percentage of revenue. So the average -- and of course if you want to take a weighted average, okay, if you want to do -- then you'd be, well, you'd be below this, because Money Mart is so big.

If you take an average across all stores -- I don't even know if that's meaningful -- you come out to something actually below 3 percent.

Deloitte & Touche -- and I've already indicated very strongly to the Board, and so have my colleagues, why we have great reservations about using anything from Deloitte & Touche. But again, it's what we've got. It has five (5) small stores at 3.5 percent. So when I'm using small stores from Manitoba, I would use 3.5 percent as my bad debt rate.

This 3 percent that I'm using on this spreadsheet is actually clearly much higher than Money Mart is experiencing, but I'll show why it's actually a reasonable number. But, again, it's there on the spreadsheet. You can change it, okay...

Okay. Now, so now I've got to actually do something with all these numbers, so I created economic income statement. All right? So you now you have -- you realize, I am bound by the Institute of Chartered Accountants Code of Ethics, and this is not according to generally accepted accounting principles. It's not supposed to be, okay, but make no mistake, I can't, you know, I -- I have to pretend I'm not a chartered accountant while I'm doing this.

What it does, it's sort of a mixture of cash flows and -- and opportunity costs. So this is -- if you're making a business decision, is this -- this thing going to give you a positive debt present value, a negative, or be about fair to invest in, given a real rate of return of 10 percent?

So -- so here are the categories. So thirty -- 37, line 37 is fixed fees for new customers. Well, all right, let me continue focusing on horses first.

Okay, so there's the horse, line 40, total payday loan percentage fee. Okay, that is the horse, okay. I mean, it's four hundred and fifty (450) -- and on these numbers it's four hundred and fifty-seven thousand (457,000) out of four hundred and ninety-two thousand (492,000) in revenue, okay. That's where everything rests.

The other things you could eliminate, and it wouldn't make a lot of difference. I'm not recommending you do. I'm just saying it wouldn't -- you know, I mean, it's still real money to a -- to a store owner and to the company. But what I'm saying is that the decision you make counts most there, and that's the one that we have to talk about the most.

So the fixed fees for the new customers is ten thousand dollars ($10,000) a store.

The fixed replacement fees, these are for the people who -- who don't pay on time and they automatically become a replacement loan, right? I mean they don't get to stop paying interest just -- or paying money on it just because they didn't -- so remember, these are the guys I'm charging at least a ten dollar ($10) fixed fee plus 1 percent per week and assuming four (4) weeks.

The percentage fee on replacement loans and the -- oh yeah, right, that's the 1 percent per month -- the 1 percent per week, the eleven thousand (11,000.

And then the default fees -- and they're quite small because -- well they're quite small for another reason.

Just let me go to a specific category here.

(BRIEF PAUSE)

DR. CHRIS ROBINSON: Right. Okay, I'm

going to now take a look at the details of the percentage fee revenue per size category.

Now if all that we're doing was assuming a 17 percent or 20 percent rate across the board, wouldn't have to do this -- this little dance here.

But I have to do this little dance because what I'm doing is I'm going back up to here. I'm saying, Here we are up at line 8. We've got three hundred (300) loans of this size. And they're -- they're going to on -- well, on this one -- on this one, they'll all pay 17 percent.

But if I were out at a loan out here, okay, three hundred dollar ($300) loan, they're going to pay one (1) rate on the first two fifty (250), another rate on the next fifty (50).

If I were instead doing so many dollars per -- or, you know, fixed fee plus interest, et cetera, again, each category of loan would sort of have to be treated separately. So that's why I had to have all those loan sizes in order to get the fees accurately done to reflect the fee decisions that we might make.

So if I come back here, we see then that we've got, you know, each loan category. There's -- that's the revenue that you get from fifty dollar ($50) loans. That's the revenue you get from eighty dollar

($80) loans. That's the revenue you get from a hundred dollar ($100) loans.

MR. BYRON WILLIAMS: Just to stop you, Dr. Robinson, for a second, you're on line 39.

DR. CHRIS ROBINSON: Thirty-nine (39) still, yes.

MR. BYRON WILLIAMS: Yeah. And if you could move to the middle of this line and -- and just highlight the -- or in terms of --

DR. CHRIS ROBINSON: Right.

MR. BYRON WILLIAMS: -- the loans for three hundred (300), three hundred and fifty (350), and four hundred (400), the cost of -- the revenue applications --

DR. CHRIS ROBINSON: Okay. Okay, so there's three (3) -- three hundred (300) -- three hundred and fifty (350), so Columns "H," "I," and "J." We'll go back to line 39, so "H," "I," and "J."

So, okay, like I said, there'll be a test on how to -- how to do spreadsheets afterwards. But what this is doing is applying to the first two hundred and fifty (250) -- just using all the numbers I put in there.

So you could change the loan gradations as well, if we want. You can say, I want to do it for one -

- you know, zero (0) to three hundred (300), three hundred (300) to seven hundred (700), whatever you like. It will all pop out this way.

And what it's doing is it's applying 17 percent to two hundred and fifty (250) and then 12 percent to fifty (50) in Column "G," to a hundred (100) in Column "H," and a hundred and fifty (150) in Column "I."

And then it multiplies by the number of loans so that we get the total revenue, the first -- the revenue per one (1) loan.

And finally, right at the beginning -- I can't get it any bigger. Okay, right at the beginning, where you still can't read it, there's a one (1) minus B-34, which is the bad debt rate.

Now this is an issue that needn't become any kind of a controversy, but will be if I don't get this explained properly.

Ernst & Young and Deloitte & Touche go through a mind-boggling exercise to back out for their way of expressing costs, what the cost of bad debts are, because they say, Well a loan -- the good loans have to support the bad debts.

And I looked at this. And, you know, after having spent some hours trying to understand what they were doing, they're thinking like accountants. And I'm thinking like it was cashflow.

So what I'm doing is simply deducting no revenue flows from the bad debts. So no revenue. In other words, the bad debts you don't get any revenue from.

Consequently, what I'm left with is the loss, is the percentage of principal lost. And so I want not the Ernst & Young or Deloitte & Touche bad debt cost per hundred (100), because that's assuming that the -- all the revenues were recorded and then deducted as a bad debt expense, which is the way accountants do it.

I'm assuming that you never include in revenue, because I'm just doing cash flow, the loans that didn't pay you anything. You didn't get that revenue, and then in addition you lost your principal.

And so I want the per -- you know, the bad debt rate, not the Ernst & Young and Deloitte & Touche calculations. And that's why my numbers are lower than theirs, but they also provide what those bad debt rates are. That's part of the source of the numbers.

So Del -- Ernst & Young has -- and I'm sorry I don't have the other document in front of me, but I -- you know, I have -- I've given you details by page, and table number, and everything, of where they show, you know, every bad debt rate they had, like all the firms -- you know, .1 percent, .7 percent, 14.1 percent. There's actually a -- a graph which is kind of funny, since there's only one (1) axis, but they have a graph.

And so again, these numbers will change with every bad debt rate. So even if you don't change anything else, change the bad debt rate and the revenue numbers will change here. And in addition what we'll see in a minute is that my costs will change. So -- so and -- and all you have to do is change the, you know, the actual -- the number in the -- in the spreadsheet. That's why it's done this way.

So we have a total of revenue here -- and this, remember, is a big firm. But I would point out -- or -- or big, well, big store. And there are -- I believe that Ernst & Young hit one store somewhere at 7 million in volume.

Of course, I don't know where that store is. I don't know that it's still at 7 million. It's possible it got lucky, got a good location, and has now been competed down -- down and broken. These are not things I can know.

But 3 million is the average for Money Mart. So, you know, I'm sticking with the average. Of course, you could get some stores higher.

So four hundred and ninety two thousand (492,000), after allowing for bad debts. So on a gross basis, they would show over five hundred thousand (500,000) in revenue. But that is still a very small store. That is a small operation. Okay?

So my original statement that these are small retail businesses -- from the point of view each store, especially a franchisee, or for the single-store owners, or even the small chains, this is small business, very definitely.

Okay, operating costs, so we've already seen where the number comes from. And it's just multiplied by my assumption of -- of the loans so that this line here is -- you know, there's -- there's nothing interesting about it. It's just there, and it's the horse. Okay, two hundred and sixty-one eight (261.8) on this company. So it's the horse. Okay, 69 percent of costs, 53 percent of revenue.

Okay, and again, this is just consistent with the Ernst & Young and Deloitte and Touche observations so that their bad debt costs are, you know, reflected differently than the way I do mine, because they never did build a revenue model.

The capital cost -- and we can see now why all the details of capital cost are really a rabbit, because we could argue about the percentage I allowed for -- for payables. We could argue about the cost of capital.

The biggest single number I threw in there was the loan -- the loans outstanding, and it's not even a very big number. And it's one that's very hard to argue with, because it just comes out of, you know, it just came -- it's just formulate -- formulized out of the average days plus the average days of the default. I -- it's a little more complicated.

But no matter how much we argue about that, we aren't going to change this number very much. And indeed we argue enough, we'll end up back at the same number, because we'll make so many changes we'll say, Oh, Jesus, it just turned out the same thing.

So this really is a rabbit. There's a lot of details in it, and there's not much -- much that matters. And this, of course, is a complete contrast to many of the hearings that you deal with. And Dr. Gould, of course, has also said exactly the same thing.

This is about cost determination, and here's the costs. The operating costs -- and so here's our pony. So 24 percent of costs, a little more than -- in this model a little more than a third (1/3). For Money Mart, it'd be even less than, you know, less --

certainly less than a third (1/3) of operating costs -- ninety thousand (90,000) and that is simply 3 percent times 3 million. That's it.

Okay, so sort of at the end here, you know, we kind of get -- everything gets kind of simple, because we did all the excruciating stuff earlier. You know, this is the -- the best kind of class, right where it gets easier instead of harder.

Okay, so total economic costs and then excess profit. So at -- what this spreadsheet shows us is at 3 million, which is Money Mart's average, at the point that I recommended fees of seventeen (17), twelve (12), and ten (10), plus the other incidental fees, the average Money Mart store is really making a lot of money. Okay.

Money Mart's fees are -- well, I haven't compared them precisely. Money Mart's fees are a little bit -- on average would be a little bit below what I recommended, I think. I haven't actually precisely worked it out per store. Okay, but it's not far off.

So this is -- you know, this is the tightest -- the -- this is the -- you know, the -- but this is the best case; this is the big store; the big company.

MR. BYRON WILLIAMS: Dr. Robinson --

DR. CHRIS ROBINSON: Yes?

MR. BYRON WILLIAMS: -- it being 10 -- 10:40, Mr. Chairman, we might want to sit down.

I'd like to finish -- I think the -- the last thing that we're probably going to cover just on this area before we kind of finish up with Dr. Robinson is Advance America, but it might be a good time to sit down for maybe eight (8) minutes, and certainly if there's any questions.

THE CHAIRPERSON: Very good. We'll have the break now. Thank you.

DR. CHRIS ROBINSON: Okay.

--- Upon recessing at 10:40 a.m.

--- Upon resuming at 10:56 a.m.

THE CHAIRPERSON: All right, Mr. Williams.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Thank you. Dr. Robinson, please proceed.

DR. CHRIS ROBINSON: All right. Thank you.

Okay, so lets move back to some more

excruciating detail. Well, --

MR. BYRON WILLIAMS: Not too much excruciating detail.

DR. CHRIS ROBINSON: Oh, come on. Come on, I go for three (3) hours in a class like this.

Now, so what -- something that I just tossed into the spreadsheet, this is not -- this is just for a convenience, because of course of what do you say is too much excess profit or too little.

I can't -- I mean, this -- this is a judgment message. So what I did is I just put four (4) metrics in here. Excess as a percent of total loans; excess as a percentage of total revenue; excess as a percentage of good loans; and excess dollars per loan, and so this tells you how much.

In other words, I mean grossly put, how much could you lower if you -- if you knocked the profit -- excess profit to zero (0), how much -- and could do it precisely, you'd save ten dollars and eighty-eight cents ($10.88) on the average loan, which would be three hundred and forty-five dollars ($345). Okay.

So it's a way of looking at it. So I can -- I can comfortably say that this is -- excess profit is significant. That -- this is per store remember, so you've got three hundred and sixty (360) of them, that I would say that -- that they should not be permitted to charge this much.

However, we've got a few more issues to work through before we can actually say that for the industry.

THE CHAIRPERSON: Just Dr. Robinson, just another way of looking at it.

When your excess dollars over a number of loans and those types of calculations, another way of stating the same thing would be to say that, your calculations on total payday loan percentage of fees arrive at something like fifteen (15), twenty (20) per hundred (100), so if you took out the excess profits, you'd be brining it down to something like thirteen dollars ($13)?

DR. CHRIS ROBINSON: Yes. Actually, I'm sure you can use a spreadsheet to do it as a fixed percentage. I will actually do that so that we can see how it changes.

Now, fee for -- so now what I did was I just appended -- and this is on the other spreadsheets as well, but I've now changed the fee schedule.

So what I've done just so you can take a look at what actual loans will cost. What, you know, individual loans will cost, fee for end day loan first time and fee for end day loan repeat. Okay?

Here I've assumed a fourteen (14) days but you could put any number you like it, work out the loan sizes, the total cost, the effective annual rate and the APR.

Of course the effective annual rate is extremely -- the rates are very high on the, you know, on the very small size loan. You could ask the Intervenors if anybody ever borrow fifty dollars ($50) anymore. I think Money Mart has gone to a minimum of a hundred and twenty (120). So I suspect a hundred dollars ($100) is probably the lowest that most people borrow now. But I -- you know, I don't really know that. I provided for lower sized loans in this.

Now, something that should be clear. There's a whole lot of debate and the -- the industry and everybody speaking for them were absolutely appalled that I would use effective annual rates and made -- they made all kinds of statements.

Effective annual rate is the only proper way to measure this but it's irrelevant because that's not what we're regulating. If we were trying to regulate by the interest rate, however calculated, we'd get a real problem with the fee schedules because we wouldn't be able to allow for the different sizes of loans and so on.

So I'm not trying to regulate -- I'm not trying to say this is the effective -- the effective annual rate should be no higher than such and such. First of all, it would be very difficult to set up a fee schedule that would actually accomplish that because you'd have to do it for every, you know, if they borrowed for one (1) day.

And it isn't the time cost of the money that matters. It is the processing at the beginning as we've seen. So in that sense, really, Dr. Gould and I come to the same conclusion which is it's -- this is just not what we're talking about.

So this is an indication for you. These are lower rates in here quoted. I believe Leo Sorensen told you that he charges 700 percent for a loan and so my rates would come to lower than that for the average size loan.

On the first time with this ten bucks ($10) it would be at five hundred (500), on the second time it would be at 421 percent as an APR.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Dr. Robinson, I want to interrupt you there and kind of get to the bottom line on this.

DR. CHRIS ROBINSON: Yep.

MR. BYRON WILLIAMS: If I'm reading this correctly, if I start at -- on line 60 for total cost based upon this methodology for a first time loan, that would be twenty-seven dollars ($27), is that right?

DR. CHRIS ROBINSON: That's right.

MR. BYRON WILLIAMS: And if I go to -- if I'm looking for total cost for a first time loan for a three hundred dollar ($300) loan, that would be under column (h), and that would be fifty-eight fifty (58.50); would that be right?

DR. CHRIS ROBINSON: That's right.

MR. BYRON WILLIAMS: And I just want to go down --

DR. CHRIS ROBINSON: Wait. Now that's the maximum cost --

MR. BYRON WILLIAMS: That's right.

DR. CHRIS ROBINSON: Okay. Somebody could do a -- a different schedule.

MR. BYRON WILLIAMS: And if I go down just again --

DR. CHRIS ROBINSON: Yep.

MR. BYRON WILLIAMS: -- to line 67, this deals with repeat and with repeat loans, you'll confirm that you're not charging that ten dollar ($10) first time

--

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- fee.

DR. CHRIS ROBINSON: That's right.

MR. BYRON WILLIAMS: So if I look for hundred (100), that would be column (d) at line 67 it'll be seventeen dollars ($17) --

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- is that right? And if I look for three hundred (300), it would be forty-eight dollars and fifty cents ($48.50), would that be --

DR. CHRIS ROBINSON: That's right.

MR. BYRON WILLIAMS: Okay. Thank you.

DR. CHRIS ROBINSON: Yes. So this is just for -- for convenience. It does underscore again that we can't -- you know, we're not -- this -- these are not going to be mortgage rates.

And so that the tarring of the payday lending industry as being outrageous and usurious -- well usurious is a term that is defined. You have to figure out how you're going to define it.

But no matter what recommendations anybody makes, if there is to be any balance, that is if there's to be a -- continue to be a payday lending industry, the APR's and the EAR's will be high. There is no question about that.

And that's -- that's just the nature of -- of the industry, of the -- making these very small loans and the costs that are involved and the bad debt rates.

MR. BYRON WILLIAMS: Now, Dr. Robinson, are you ready to move to Advance America?

DR. CHRIS ROBINSON: What I'm going to do now -- well, first -- okay, now -- now you can't look at your paper. Now you're going to have to look at this because I'm going to show you just what happens and there -- and then the results of what happens if you change something, so that it -- it just works.

So if I change this to $1.6 million -- I'll explain in a minute why I'm doing that, why I chose $1.6 million. It's not random choice.

So I change to $1.6 million. Okay, so, you know, the number of loans decreases as you'd expect to roughly half and so on. So that's on line 8.

Then if you go down of course the, you know, the revenue model and the cost model don't change. It's our economic income statement that changes.

So the way to make sense of this would be to compare it with paper you have in front and then look at what I've got on the screen, because the paper you have in front of you, 25, Coalition 25 -- the spreadsheet

-- shows a $3 million volume.

So here we are down at 1.6. So I've gone to a much smaller volume size. And so of course revenue drops, costs change, and the percentages change, but not by much. The excess profit is still forty-eight (48) million.

So at a -- at the fee schedule that I suggested a store that is only slightly more than half (½) the size of a Money Mart store, if operating efficiently, is still making money --

MR. BYRON WILLIAMS: And --

DR. CHRIS ROBINSON: -- and still making excess profits as -- as shown on line 49.

MR. BYRON WILLIAMS: Just a couple items of clarification. When you spoke of changing to 1.6 million, that was line 3, volume of loans. Is that right?

DR. CHRIS ROBINSON: Yes. Changing line 3, volume of loans to 1.6 million.

MR. BYRON WILLIAMS: And when you spoke of the number of loans decreasing, that was line 8, the extreme right-hand side --

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: -- is that right, Dr. Robinson?

And when you spoke of excess profit of 48 million, I'm assuming you actually meant forty-eight thousand (48,000). Would that be more accurate?

DR. CHRIS ROBINSON: I'm sorry, forty -- did I say 48 million?

MR. BYRON WILLIAMS: Yeah.

DR. CHRIS ROBINSON: Wishful thinking.

MR. BYRON WILLIAMS: That would be an overstatement slightly?

DR. CHRIS ROBINSON: Yes, forty-eight thousand (48,000). Well, I mean, as I had told the federal government when I was first working for them, if they didn't get a report from me and found that I had left the university, it would be because I had set up a payday lender but -- and decided to change careers. But I didn't in fact do that.

Now, I'm going to make one (1) more change. I'm going to change the operating cost per hundred dollar ($100) loan to eleven (11), so eleven dollars ($11) instead of eight-fifty one (8.51). And again, there's a reason for that.

Well, and no this is not coincidental. And yes, of course I cooked this, because I knew what I wanted. But in fact we're now down at a level where I'd say that this is zero excess profit. Yes, it is a positive number, eight thousand dollars ($8,000) per store. And for Money Mart that would be, you know, it looks like a fair amount of money.

But let nobody suppose that any of the work that any of us have -- how any of the witnesses have done can be really precise in that sense. So if we look at my metric, that's a dollar sixty-two ($1.62) alone.

I think without -- we don't have to make any claims that our borrowers are foolish and spendthrift or don't understand what they're doing to suppose that they would be not so likely to notice a dollar sixty-two ($1.62) per loan difference. And the -- it's, you know, half (½) a percent as the excess is a percentage of total loans.

So this is the number. Now it's, as I said, I can't -- I could target this. I could set up some bizarre, you know, 17.62 percent and get it to, you know, a particular result. But that's not helpful. We want even numbers. And I had a reason for choosing this one.

So what? Let me recap. What we have here, line 3, 1.6 million in loans, costs now at eleven dollars ($11), okay, per hundred (100). That's the operating costs. I haven't changed the other costs, okay.

So let me now turn to a different exhibit and show you why I got those number -- why I used those particular numbers.

MR. BYRON WILLIAMS: And I'd ask, for the clarification of all the -- the exhibit is Coalition 23. The top title is "Advance America Costs."

DR. CHRIS ROBINSON: All right. So Advance America, given a little bit more time I would have provided you with a more of a description of Advance America. But we're all -- I mean in writing -- but we're all kind of running fast here.

The Board requested us to look at this, and they have placed the appropriate items on -- on the record. I had access to them elsewhere.

And so Advance America is the largest payday lender in the United States. So it's really big. Advance America, you can see from this table, where do I -- where's my -- number of company-owned stores, line 19, okay. So I'll just point this out without blinding myself -- the other way.

Okay. So the number of company-owned stores, just under three thousand (3,000). And in fact it's now all company-owned stores, so that's their chain. So it's really big.

And Advance America is a payday lender

only. They are what Money Mart calls a monoline operator. That is, all they do is payday lending.

So they give us two (2) different perspectives here. One is that they are -- do not have the economies of scope that Money Mart has or that quite a few of the Canadian firms have or are striving to attain. Second, their volume per store is much lower.

I did the same sort of things -- I'm not going to go through this spreadsheet in detail unless the Board wishes me to, because it is the same principles.

Of course, the 10-K hasn't got the same lines. It's all payday lending. It's all US. I didn't have to fool around with allocating anything, because it's all payday lending.

I did not go back -- you notice I used only -- this is the -- the quarterly -- the most recent quarterly, the 10-Q. I didn't go back to earlier 10-Ks, because Advance America has a third characteristic.

It's been abandoning brokerage and representing banks and so on. It's been getting out of some states, and it's been abandoning that model. It's been going to a straight store-owned, store-financed loans model.

As a result their -- their -- well their results have become -- had been terrifically good. And they've not been so good when they've done that, because they, of course, are hitting the bad debt loans that you hit when you start clearing out of same states. Right?

You're sort of abandoning and then, now the -- now the borrowers know that you're not going to be there long. They don't have to pay back. And, of course, you have to keep the stores open to process the loans left, but you're not taking more loans.

So your, you know, the costs rise very rapidly, so that they've suffered some of the experiences that -- that Rentcash did, in some ways. Not the exiting markets, but the exiting of the rollovers. In this case it's not rollovers they're exiting. It was the agency business altogether.

This also is a rather strong signal, which is that they think that the -- that they think that the model of -- the business model of owning your own stores, financing your own stores is the best way to go.

And as I pointed out in some of my evidence to the Board -- for example, using Money Mart -- their lending costs -- I'm sorry, their borrowing costs are not very high. I was challenged by -- on my interrogatories to say, Well where could I borrow at that rate?

Well the answer is Money Mart's borrowing it far under the rates I was talking about, even though that's paying high. And it has refinanced most of its debts at dramatically lower rates, because the big lenders have realized how -- that this is, in fact, not a risky operation.

Anyway, so Advance America allows us to look -- and this is head -- this is the -- this is the reason why I've been able to change my recommendation from B-18 -- 1B-18 revised and 2B-215 to go from a -- a wide range to go down to a point.

I realize you still have to consider a range, but I can be more precise now, because I now have a whole lot better evidence from a reliable source, that is an audited source where I get the detail that -- and that isn't suffering the problems of Ernst & Young and Deloitte & Touche, to see just how reasonable my first crack at this was.

And I will also show you another set of evidence that again supports what I'm -- the -- the rates that I'm choosing. So --

MR. BYRON WILLIAMS: Now --

DR. CHRIS ROBINSON: -- that's the reason why I've been making life so difficult for everybody with changing these things, is that I keep on getting the opportunity to have more data.

MR. BYRON WILLIAMS: Now, Dr. Robinson, just be -- just to make sure I have point on Advance America. If I were to contrast it with Money Mart, for example, I would say one (1) -- one (1) difference is that because it's not heavily into the cheque cashing businesses -- business, it -- it lacks the economies of scope. Is -- is that one of your points?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: Okay.

DR. CHRIS ROBINSON: It's not at all in cheque cashing.

MR. BYRON WILLIAMS: Secondly, it is compared to the Money Mart average loan volumes per store in the -- in the range of 3 million, we're talking of a -- a volume of 1.6 million. Is that right?

DR. CHRIS ROBINSON: Yes, and that is in Canadian dollars.

MR. BYRON WILLIAMS: So it's a lower volume as well?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And the third illustrative point that you're making, as I understand it, is that this is -- was formerly operating in some jurisdictions under a brokerage model, but it has moved away from that. Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: Thank you.

DR. CHRIS ROBINSON: So let me show you just a few of the numbers. So if we look at -- so these are four (4) observations, slicing some of the same data using the most recent data.

And as I've said, the earlier data gets more confusing, because there are large chunks of agency revenue sorting those out and sorting the costs out, because the agency -- in their case, the agency revenue shows as just a line for fees, but the costs related to that are sort of, somehow buried.

They're running the stores -- I mean, it's like Rentcash -- and somebody else is financing it. But you've got a mixed model -- or you know, a mixed business, so it's kind of hard to disentangle the costs. Given enough time, I could do that, but this is not something that I had a lot of.

And you always prefer the most recent data. The Money Mart data gave a really nice pattern, and therefore was helpful to us. I'm not sure that the earlier years would be too helpful, or in helping me anyway.

So I -- I've gone through -- as I said, the financial statements have some different aspects to them. Same legal requirements, of course. It's a ten (10) -- 10-Q in this case, but audited.

However, the bottom line: operating cost per hundred dollar ($100) loan in Canadian dollars, eight ninety-nine (8.99), ten fifty (10.50), ten forty (10.40), and ten ninety-six (10.96) are the four (4) observations we have. Remember this is all overlapping, right, because this is three (3) months, 2005/2000 -- or sorry -- 2006/2007, and nine (9) months, 2006/2007.

So these are -- these observations are not independent of each other. Okay. The three (3) months are included in the nine (9) month.

However, notice the -- earlier, before they were starting to exit, what happened is specifically why these costs -- so in other words, I would suspect that ten ninety-six (1096) is too high.

I'm going to use that as my point. You know, this -- this whole business of being -- you know it's one of the requirements of chartered accountants, is that they're required to be conservative. And -- and so consequently, you know, I'm -- I'm sort of -- it's part of my ethics. I'm supposed to be conservative and -- and boring.

And there you are. I'm using the highest. That's where my eleven dollars ($11) comes from. Ten ninety-six (10.96), I used eleven dollars ($11). Saves typing to use eleven (11) instead of ten ninety-six (10.96). That's the only reason.

However, look at this. Back in -- in 2006, what's happened to -- to -- well, to all the payday lenders in the US, but specifically what's happened to them is also very instructive, because we've had regulatory changes in certain jurisdictions where they had a lot of stores.

Pennsylvania, I -- I will not try to -- who am I kidding? I don't understand American regulatory environments well enough; not all fifty (50) of them anyway.

In Pennsylvania there was a court decision that demolished them in some way. I think it was directly against them. So they're pulling out of Pennsylvania.

But they may go back in in some other form. I -- I just -- I don't quite understand that. But Pennsylvania is a huge state.

North Carolina allowed -- well allowed, probably chose to have its existing payday lending legislation die. I guess it was temporary in some way. And consequently, it went back to some sort of criminal rate of interest, like 36 percent per annum APR. So they cleared out of North Carolina. Okay.

And this was all happening just after this -- this three (3) months in 2006. So it's not reflected in them.

And then Oregon went explicitly to 36 percent. Now, I had an oral communication that suggested that at first that the payday lenders were still operating there, but certainly not Advance America.

I mean this is right out of their 10-Ks and 10-Qs. They just said, We're gone. But they had to stay long enough to clean up. Okay.

They have employees to -- you know, they have to pay severance. They have to do all the things you do when you have to do something like that.

So consequently, they took out -- they -- you know, they ended up leaving three (3) states that they had lots of stores in. They're currently oper -- they're -- they're in thirty-six (36) to thirty-seven (37) states, including those ones, which you'll see in later evidence, again, that those lines are now -- some of those lines are now blank.

And so consequently, their costs rose per one (1) expressed per hundred (100), because they got costs with no revenue attached to them, because they're operating as a responsible business. They didn't just, you know, put up the shutters and say -- say to the employees, Get lost. They paid them their severance. They paid them to collect the loans outstanding, et cetera. And of course, their bad debt rates went up.

However -- so I would suspect that -- I would suspect that the -- there we are -- that the eight ninety-nine (8.99) is in fact closer. And you'll notice that that's not far off the Money Mart costs, in spite of the lower volume.

Advance America appears -- and with this upheaval it's hard to tell -- but appears to be extremely profitable, however measured, and highly competitive.

But I can't be sure of the costs. So I used the ten (10) -- I used the eleven dollars ($11) to give me another point to say, Okay, we can't regulate so that -- I mean, among other things, I -- I understand that Mr. Slee loves competition, from his rebuttal evidence -- or sorry, from his -- from his cross-examination. And I would really hate to -- to see Mr. Slee robbed of that opportunity.

So I wouldn't want -- I wouldn't want to regulate, given the balance, in such a way that Advance America -- which, as we've just heard, is just entering this market -- would suddenly say. No, forget it, got to go out. I mean we know that they will quit.

Now we're not talking 36 percent APR. So I want to allow -- to see what their costs are. Now their bad -- their loan loss rate is higher. Their loan loss rate, I believe, has gone higher because of these problems in these states.

So I'm not so confident in what their loan loss rate is. I would guess that they -- that this three (3) months here is a disaster for them, and it's a disaster because of having to clear out of those states and everybody saying, Ha, got you. You're gone; you can't get me.

MR. BYRON WILLIAMS: And by the -- the period that you are pointing to with your pointer is September --

DR. CHRIS ROBINSON: I'm sorry the --

MR. BYRON WILLIAMS: -- the period ended September 30th, those seven (7) -- the three (3) month period there, sir?

DR. CHRIS ROBINSON: Yes. I think they will be -- I think that -- that they're reflecting the bad debt rates that are hitting them. But nonetheless, it shows that they are, you know, I mean those states aren't the whole story.

So their bad debt rate is higher than Money Mart's. So that this suggests that 3, 3 ½ percent

-- which are the numbers that I'm inclined to use -- are also reasonable numbers that I should be using rather than, you know, using Money Mart's 1.6 percent or something like that.

Because you will recall, of course, that this is an odd regulatory proceeding and that this is not a monopoly. There are many companies. And it is impossible, as Dr. Gould has also pointed out, in -- in anything other than the world that economists live in to regulate a real industry with different competitors so that everybody earns just exactly a zero, you know zero (0) excess profit. I mean it just doesn't happen, so...

Okay, so there's the bad -- there's the idea of the bad debt rates. There's the costs. And there's the loan volume, which is at various numbers, and so I've taken to be 1.6 million. And now you see where the two (2) changes that I made in the previous spreadsheet come from.

Okay, so I cho -- I changed Coalition Exhibit 25. I cha -- I mean, you know, if you're looking at that, I changed the previous spreadsheet, okay, the one that -- where everything matters. There are the two (2) numbers I changed.

Volume of loans 1.6 million, that's the experience with Advance America -- the biggest payday lender, and a monoline provider, across the US, in Canadian dollars -- and its expense ratio for operating costs as I allow it.

I'm probably overstating the operating costs because of the way I'm handling sustainable capital expenditures. But it -- it's getting pretty difficult to sort that one out.

Still eleven (11), which is the highest number that they show of the sample I've got there. And the result is -- and there's the three point (3.) -- 3 percent bad debt rate.

And I may point out, by the way, as I remind the Board that Money Mart's experience in Canada is better than the US. I mean, of course, I would like to interpret that as just Canadians are more honest than Americans. But I'm sure that it's more complicated than that.

However, there's no reason to suppose Advance America wouldn't have Canadian experience, you know, in its bad debts once it gets going.

And so we're at about zero. Okay? We're at about zero. So the rates that I -- the specific rates that I recommended have reasonable basis for a zero profit in a efficient, payday only lender, which is not actually something I particularly support.

That is, I believe that we should expect a -- payday lenders to take economies of scope to -- to seek them out, and I will come back to that point. But that's what my model is -- is doing. That's how I'm using it.

Now, before I leave the most excruciating detail here, is there -- are there -- oh, I'm sorry, there's one (1) more change I'd like to show you, because it -- it will become important.

If instead -- this is just -- this is for the spreadsheet geeks again. If instead we wanted to say -- and it is an alternative that I put in my recommendations. I said, instead you want to make this even simpler, which is -- that is somebody else's decision, because I can't -- I can't decide what you should do.

I like complexity, right, because then I can get more fees and so on, because you've got to hire me to interpret them. That's how accountants make their living. But yeah, Canadian -- generally accepted accounting principles, you realize, are known as the Full Employment for Accountants Act.

Now if, however, you want a simple, really simple one, do this. Change it to a 17 percent fee across. Now you can do a whole new spreadsheet, but you don't have to.

Oh, Ms. Friesen pointed out that I was talking about this being -- this number here, when I was actually talking originally, I was talking about it being 1 percent. It's 10 percent. Okay, obviously everybody else figured that out but me.

I just change this to point one seven (.17). So, you know, the spreadsheet doesn't need to be so complicated now, but this is the easy way to change it without reprogramming it. Always better to look for easy things.

And then I do one more thing. I do one more thing. We want it simple. So no fixed fee for -- per -- for each new customer. Okay, let's simplify it some more.

MR. BYRON WILLIAMS: Now, Dr. Robin -- excuse me, Dr. Robin --

DR. CHRIS ROBINSON: I'm --

MR. BYRON WILLIAMS: Robinson, I want to stop you there and just make sure I understand what you've done. Previously you had proposed a -- for new stores -- excuse me, new -- new loans a ten dollar ($10) flat rate and then a sliding scale.

If the Board in its wisdom chose to operate without any flat rate in a -- on a simple seventeen (17) per hundred (100), no matter what the vol -- the value of the loan is, this is the result?

DR. CHRIS ROBINSON: Yes. Yeah, so what I'm saying is let's simplify it. Seventeen (17) percent of the value received, if we're to be precise in the language of the -- of the act -- or more precise anyway -- 17 percent of the value received for an initial or a repeat payday loan. All the other fees refer to replacements. And I'm not changing them. But this is, as we said, the horse. So what effect does it have?

Well, what it does and -- is it increases the excess profit at this $1.6 million, eleven (11) -- eleven dollars ($11) per hundred (100) cost model. So it's now at four dollars and thirty-eight ($4.38) a loan, or 1 ½ percent of total loans.

And this is where, you know, you can't be precise, because suppose instead we changed it to 16 percent, which is what I thought would work originally. And that's why you do spreadsheets. I mean, I used to have to do these things -- this sort of thing by hand. And by hand I mean without a calculator. Tells you how old I am.

So suppose I take it to 16 percent. At this point, I've got a small excess profit. However, it gets -- when I do others, it gets worse. Okay, when I do other sizes of companies, things get worse. So you could argue for a 16 percent with no fixed fee for the new customer, for a straight 16 percent across the board.

We're now into judgment. Okay, I'm saying that the equivalent to my sliding scale -- and I prefer the sliding scale. I prefer the slightly more complex fees, because it sets the costs where they belong, on the consumer -- well, at least does a better job of that.

But nonetheless, you could use 16 or 17 percent as your replacement for that flat rate -- well, no, sorry, not a flat rate -- percentage of principal, regardless of size, regardless of time to maturity, and no fixed fee for a new customer so that the repeat loans bear part of the cost of bringing in new customers, which is the way it is now in general.

MR. BYRON WILLIAMS: Now, Dr. Robinson, I'd like you to -- to move, if you could, to the different costs, volume and fee scenarios. That's --

DR. CHRIS ROBINSON: Yes, so it -- it --

MR. BYRON WILLIAMS: -- that's Coalition 26.

DR. CHRIS ROBINSON: Yes, is -- is the Board understand what I'm doing? Have I explained this suitably?

MR. BYRON WILLIAMS: The -- the Board

will ask any questions if they --

DR. CHRIS ROBINSON: Oh, yes.

MR. BYRON WILLIAMS: -- feel the need to.

DR. CHRIS ROBINSON: Okay. Well, yes, I know. But, you know, I'm -- I have to ask too, okay, this is...

THE CHAIRPERSON: We follow you, Dr. Robinson.

DR. CHRIS ROBINSON: Pardon?

THE CHAIRPERSON: We are following you.

DR. CHRIS ROBINSON: Oh yeah, well, it -- it looked like it. You haven't embarrassed me with anything about pointing out the mistakes I've made yet, so...

All right, so this is -- I'm sorry, Mr. Williams, what -- what Coalition number is this again?

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: It's Coalition 26, and it has a number of tables here. I'd like you really to concentrate on the first one and then just explain what you've done very quickly with the other ones, Dr. Robinson.

DR. CHRIS ROBINSON: Okay, so for those of you who have read Agatha Christie's The Nine Tailors, campanology is the -- is the art of ringing those big Church bells in England. Okay. And you have complex patterns. And going through one of those patterns -- which can take, sometimes it takes days to go through the whole pattern -- is calling "ringing the changes."

And I always think of it as ringing the changes. And what I do is I show you a bunch of different possibilities out of the spreadsheets. You can do whatever you like with the spreadsheets, but this is what I chose to do to illustrate where I am and what the tradeoff is.

So here we are at the large chain and a single store. So we have a large chain here with 2 millio -- 3 million, 2 million, 1.6 million, 1.2 million in sales. We have a single store with one and a half (1 ½) -- 1,750,000 in sales -- sorry, in loan volume.

Now I would point out that there are probably single stores with higher than that if they have good locations, but I don't have that kind of detail. I don't -- Ernst & Young has that kind of detail, but nobody else does other than the individual store operators.

So there we are, operating costs of eight fifty-one (851) for the three (3) and 2 million size. So this like it's a Money Mart with economies of scope. And you notice that the excess profit is substantial. Okay. This is -- I'm sorry, and this is using my recommended fee structure.

Then you go the third column, 1.6 million. So this is -- I'm treating this as if it were now down to a company which either has, you know, which has smaller volumes and doesn't have the economy of scope, so it's got eleven dollars ($11).

I still think all these are very conservative figures. I think they'll in fact do better. But they in fact show, as we already saw, only a small excess profit. It would be reasonable to say that they're zero excess profit.

At 1.2 million we have a small, negative excess profit. Remember, they're still making a profit. One point two (1.2) million is roughly -- and I say roughly; we don't have really good evidence, because I'd need more -- but is roughly what Rentcash's volume is in Manitoba. Rentcash's volume nationally -- I haven't been able to figure it out because they don't give all the numbers -- but it's about 1.6 million per store.

And Rentcash, as we know, is not entirely a monoline provider, but because of Money Mart's lead has had great difficulties in -- in establishing cheque cashing volume, though it's doing other businesses like title loans. Again, that's a point I'll come back to.

So, there they are. So they, under this fee schedule require -- if they want to make lots of money, they're going to have to become slightly more efficient. But this is still, you know, given this eleven (11) and nine (9) and how conservative I'm being, I would say that all these efficient producers are okay to making a lot of excess profit under my recommendations. It's the best evidence I have on the costs and volumes.

The single stores are going to have it tougher. The single stores at 1 ½ million -- and I've -- see, now I don't have valid evidence. I can't use Ernst & Young or Deloitte & Touche reliably. So I said, All right, well there's Advance as monoline. Let's put the costs higher.

So I decided to try twelve (12) and a bad debt rate of 3 percent and so on. And so they're -- now they're slightly larger loan volumes, so that the dollars per excess per loan is lower. But the total excess profit is negative twelve thousand (12,000).

Remember, they'd still be making a profit, they just wouldn't be making as much. Given the -- the numbers that we have, I can't distinguish either the large chain -- 1.2 million -- or the small store -- 1.5

million -- from each other. I would -- I would look at them and say that's a zero excess profit.

And if it were plus eleven thousand (11,000) I would say it was zero excess profit, just as I did with the 1.6 million.

So in fact, these three columns -- 1.6 million large chain, 1.2 million large chain, 1.5 million single store -- they are not -- for any practical purposes, the result of them is not distinguishable.

You could put in a zero. This is speaking almost as if I were a statistician, saying there was not a significant difference between the values that I've got there and the value of zero. Okay. But that's a judgment model. I mean, there's no -- there's no possibility of doing this in any statistical -- well, there are -- there are ways of doing it, but they're not -- you wouldn't -- you wouldn't want to give them too much credibility.

So the smaller stores, as they are currently constituted, if I'm right about their cost structure being higher -- and of course we don't know, because stores' cost structure varies widely.

And one of the key issues in small stores, which I asked in the interrogatories -- or which Mr. Williams asked on my behalf -- was, What was the amount that Ernst & Young and Deloitte & Touche assumed was being paid to owner/managers for their time in the store?

And that answer was not forthcoming. And consequently, we don't know what profits are buried in there. I have extensive experience -- both with strategic work with companies where I've been inside as part of my many years at Chulick (phonetic), and as a charted accountant and an auditor, and with case studies I've done on companies -- with seeing that small companies do really weird things with their owner compensation, and it's usually driven by taxes.

So that they may be recording huge compensation one (1) year and none the next, or very small compensation and the rest of it's paid as dividends. And sometimes they don't even realize what it -- you know, they don't even realize -- they figure they're doing just great because they've got a good profit. And the -- you know, the owner is working two hundred (200) hours a week with no salary, and in fact, he would be better off to retire and live on old age security than work.

So that it's very difficult, and given that Deloitte & Touche and Ernst & Young are not willing to reveal that assumption, which doesn't say anything about the companies -- what they did -- I mean, they very properly adjusted for that.

As they said, We're going to look at the compensation, and -- but they didn't tell me what it is. So in fact, none of us is really able to judge, with these smaller stores, what is a reasonable compensation.

The owner com -- the only compensation evidence I have, actually, is what Gordon Reykdal and Michael Thompson, I think it is, are paid. That's the only compensation evidence I have.

MR. BYRON WILLIAMS: Now, Mr. -- or Dr. Buckland (sic), just in terms of this first table, the bad debt rate you assumed was 3 percent?

DR. CHRIS ROBINSON: Yes. So lets take a look at another one.

Here is going to 4 percent, which I think is too high. I think 4 percent is too high, but I -- I like 3 percent. That's my balance, if you like, or maybe three and a half (3 ½).

I know you have heard evidence that others are featuring high -- higher rates. It is not evident to me that that is a result of choice, but rather of efficiency.

But that's a choice you'll have to make, whether you wish the balance to be that consumers who don't want to pay should be able -- who are unlikely to pay should be -- get loans anyway at the expense of the others who are willing to pay.

So, at 4 percent we have the same experience in that the three (3) and $2 million large chain are still making big excess profits.

The 1.6 million is now down to a negative, but it's still indistinguishable from zero. The 1.2 million large chain store is now showing -- this is a significant negative, I would say, so that it would have to do something about this. My argument of course is that it should change how it does business.

And the same is going to happen for all the single stores. Interestingly, the evidence on the national scene, from Ernst & Young, is that the small stores have a lower bad debt rate than the big stores. And that was given a sample of which included Money Mart, which has, as we know, quite low bad debt rates.

If you look at the Ernst & Young tables, you will in fact see that the bad debt expense for small stores was lower. And so obviously, the small stores have found ways to control this better.

MR. BYRON WILLIAMS: Now, if I could get you the -- the third table just looks at a different bad debt rate?

DR. CHRIS ROBINSON: Third table looks at lower bad debt rate, does exactly what you'd expect. Now we have -- but it actually is no different than the 2 percent -- the 3 percent table in terms of what you conclude.

You would conclude that the same stores are okay or making excess profits as before and that the single stores, with one (1) or seven hundred and fifty thousand (750,000) -- 1 million or seven hundred and fifty thousand (750,000) volume are going to have a hard time.

And here's the 17 percent, no first time borrower fees. So I showed you the effect of that. Here it is built out in the table.

But I -- I don't think that it's helpful for me to just keep talking about these tables. You have them. And, as I said, you can -- you can mix and match so to speak. You can take the assumptions you would like -- well, assumption is wrong. You can take the values that you would like, and enter them because you, of course, have all the evidence that's been presented here.

I'm choosing what I think is the most appropriate evidence of all that's available to me, but that's -- you know, that -- that's your judgment. So that's my expert evidence on that.

Now, okay, so are you satisfied with the excruciating detail? You've had enough of excruciating detail?

MR. BYRON WILLIAMS: I'd like to -- again they'll --

DR. CHRIS ROBINSON: He wants me to stop talking.

MR. BYRON WILLIAMS: -- they'll -- yes. They'll ask you if they have any questions on that.

I'd like you -- I think the next subject matter is US experience with rate regulation, Dr. Robinson.

DR. CHRIS ROBINSON: Yes, now --

MR. BYRON WILLIAMS: And for the Board's assistance, I believe the -- Dr. Robinson may be referring to a table, which is Coalition Exhibit Number 22. And in the top lefthand corner stamped in should be something, "Number of Advance American Stores," which comes from the PUB-10K.

(BRIEF PAUSE)

DR. CHRIS ROBINSON: Good. Okay, so I'll give everybody just a minute to find that, because this is something that gets so big in terms of it -- I can't project it on a screen helpfully. Okay? So we're all going to be looking at paper there.

Okay. So it -- it's "State Regulatory Regime" at the top. It kind of looks like this. Okay. Too fine for you to read.

MR. BYRON WILLIAMS: And you also on your PowerPoint slide --

DR. CHRIS ROBINSON: I will -- I will go back to that. I just want to show them what's -- well, actually, let's put the PowerPoint slides up at the same time. Just a second -- which one is -- wrong one. Yeah, there we are.

Okay, so the US experience with rate regulations. So one of the important things to -- that -- that the Board is charged with and that I can provide some evidence on is what is the regulation in other jurisdictions.

And the jurisdiction that we always compare ourselves with is United States, because the United States is similar to us in so many ways. And, consequently, we have -- and it's just like Canada. They have this system whereby the states end up doing it rather than the national government.

So, consequently, we have state by state. Now there are thirty-seven (37) states on the table, and what we've done on the left is -- the table's actually typed originally using the Advance America and then filling in the fee information, you know, the fee limits that the laws have.

Now, I have to caution you, of course, that we have used the most up-to-date information we get -- we could get and checked it. Everything but -- and several of us have -- have worked on this, so that Ms. McCandless proofread the whole thing and checked it against the sources, somebody else input it.

I checked it against the things that I knew sometimes from other. But, you know, state legislatures change their minds and change rules. So I can't promise you that every single one of these is what it is today. It keeps changing. I can't even promise you that our sources were being kept up to date.

But as far as I know, this is the best evidence you're going to get. It certainly reflects most of them correctly, and reflects every one of these states was in the last year or so at least in this regulatory position.

So what you find is -- and I've summarized -- sort of given some summarizing. As far as we can tell, almost all of the remaining states that are not on the table do not allow payday lending. Okay?

They just ban it in one form or another or make it, you know, leave it with the -- some of statutory rate of interest which no payday lender can possibly operate under. Okay? So then in that sense, they're like Quebec.

MR. BYRON WILLIAMS: Now, Dr. Robinson, I just want to stop you for one second and -- and get you to assist me in describing the table for one second.

DR. CHRIS ROBINSON: Right.

MR. BYRON WILLIAMS: And I'll -- I'll do this and then you can just confirm if I've got it right.

I see at the top, I see eight (8) -- or excuse me, nine (9) columns. The first column's simply titled "State," provides the thirty-seven (37) states that are included in the table.

Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And then what you've done in the next three (3) columns, which are labelled 2004, 2005, and 2006, is you have plotted the change in Advance America stores as derived from the 2006 10-K.

Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: For example then, if I look at the states such as --

DR. CHRIS ROBINSON: Try Indiana.

MR. BYRON WILLIAMS: -- Indiana, we see the number of stores in 2004 being ninety-one (91), in 2005 being a hundred and sixteen (116), and in -- in 2006 being a hundred and twenty-three (123).

Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And what you have done in the next column titled "Maximum Finance Rate and Fees" is draw from RC/Coalition-33 and simply put in what you understand to be based upon that source, the -- the regulated rate ceiling.

Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: So for Indiana, we can see that for the first 15 percent it's zero to two fifty (250). And then from two fifty-one (251) to four hundred dollars ($400), it's 13 percent, et cetera.

Is that right, sir?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And then what you've done, one (1) column over is look at the finance charge provided from RC/Coalition-33 for a fourteen (14) day loan. Again, for Indiana, that would be fifteen dollars ($15).

Is that right?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: The next column sets out the loan term in that state according to the source, which is a minimum of fourteen (14) days for Indiana as well.

Is that right?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And the next column is the maximum loan amount. Again, it varies, but in Indiana it's five hundred and fifty dollars ($550)?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: And the final column provides the -- your understanding based upon RC/Coalition-33 of whether the rollovers are permitted and, if so, how many.Is that right?

DR. CHRIS ROBINSON: Yes.

MR. BYRON WILLIAMS: Okay, now please proceed to your --

DR. CHRIS ROBINSON: All right, so, I'm going to deal first with the right-hand part of the table with what the rules show us. So, as I said, there's thirty-seven (37) states and most of the oth -- the -- as far as we know, the others don't allow payday lending. Utah and Hawaii aren't on here but do seem to allow it, but we haven't got -- we haven't found the laws governing it.

Fee limits -- and this is very important -- the fee limits. Eight (8) states are less than 15 percent, nine (9) are at fifteen (15). I -- I'm summarizing this in -- in a particular way; that is some of them have got sliding scales. I'll come back to that in a minute. So I'm just sort taking what would be the average.

So, for example, I would classify Indiana as being below fifteen (15) because the highest rate is fifteen (15). Loans over a hundred (100) -- over two hundred and fifty dollars ($250) will attract a total rate less than 15 percent. So the average loan, if you might -- you might like to put it.

In eight (8) states the cap is less than 15 percent. In nine (9) states the cap equals 15 percent exactly. In eight (8) states it ranges from 15 ½ to 20 percent. In three (3) it's greater than twenty (20). Two (2) have no limit and seven (7) don't appear to be specified, which might mean no limit and might mean we just didn't find it or that -- rather, that our source -- the sources we're using.

Because I -- I mean, I, you know, I -- I -- we're using a secondary source or a couple of secondary sources. We are not, in fact, going to the state legislation in each case. Simply the -- the amount of time required to plow though that is -- is more than resources we have.

I'm -- I'm not going to worry about what the fourteen (14) day charge; it's just an example of what it would be on a hundred (100) day loan. But the loan term and -- oh, okay, sorry -- another way of summarizing the rate caps first.

Seventeen (17) are below my proposed cap, eight (8) are at or somewhat above my cap, five (5) are above Dr. Gould's minimum, and seven (7) we don't know. Okay. So that'll give you some idea of what the regulatory environment is with respect to fees.

I wanted to point out a bit of other -- some other things though. The loan terms -- and this is one of the reasons why, in fact, I would argue that Canadian payday lenders actually have certain advantages.

The loan terms are almost -- are -- are almost always shorter than the sixty-two (62) days here. Now I'm not sure if that matters, but sometimes they have a minimum term as well. In other words, you can't just lend for two (2) days or four (4) days or something like that. You have to lend for longer so that the lenders don't get the opportunity of cashing in a whole lot.

I don't know if that matters a lot, but, you know, there are more limits on the American lenders than there are on Canada lenders under the Manitoba legislation in that respect.

And the other part is the maximum loan amount, and -- oops, one second, I didn't -- okay, I didn't summarize this in this, so I'll just summarize it quickly. The maximum loan amount is -- is less than five hundred (500) for six (6) states, is at five hundred (500) for seventeen (17) states, greater than five hundred (500) for seven (7), and the highest that we ever get -- and not specified in seven (7) -- the highest we ever get is a thousand (1,000). And yet our law in Manitoba -- well, actually I think it's a law across the country, because, of course, it comes from -- from the revised -- revisions to Section 347 -- is fifteen hundred (1,500).

Now, of course, when you're using a fixed -- when you're -- you're using, as I have already shown very clearly, high costs for the initial, you do the loan. In other words, a fifteen hundred dollar ($1,500) loan will cost you almost as much in processing as -- or cost you only a little bit more in processing time -- maybe no more -- than a hundred dollar ($100) loan. You make a lot of money on the fifteen hundred dollar ($1,500) loan.

Now, you have heard an -- you have heard from Rentcash that -- that they believe that they face a higher risk on the loans. Now -- on longer period loans, or larger loans, a greater risk of default. And I think -- I think Mr. Slee said the same thing on terms of size.

However, as I have already shown, the horse is the operating costs so that, yes, you may have a few more bad debts, but boy do you ever make a lot more money on, you know, 15 percent of fifteen hundred dollars ($1,500). And so consequently, I'm unconvinced of any of that.

I believe that the larger loans that are permitted in Canada are, on balance, likely to be more profitable, and the Amer -- so the Americans have restricted payday lending to be really the small loan area.

Now, of course, for the most part, the loans are under five hundred (500) Canada, in any case, I -- I believe, but I -- I'd have -- somebody else would have to provide me with the evidence.

So that is what the right-hand side of the table shows us about the regulations. And that is what I meant by -- I said that there's more considerable support.

Most of the American states, including

states with small populations and small densities, are regulating at rates at or below what my recommended single point is. And they're all inside my -- no, sorry, they aren't. Almost all of them are inside the broader spec -- broader band that I recommended earlier.

So lets turn to -- let me turn to the next page of my -- of the presenta -- of the overheads, and Advance America is expanding under the existing rate caps.

So if you look at 2004, 2005, 2006 -- if you look on the second page at their total number of stores -- okay, and remember, they've been operating -- they're -- they're not just a new player. They've been operating for quite a number of years, I mean, you know, quite a number of years for the payday lending business, which is itself pretty new.

So that this is not sort of they're just getting going and -- and expanding rapidly in the way, say, that Rentcash has expanded very rapidly in recent years. This is an already huge established chain.

Under rate caps, total number went from twenty-four hundred (2,400) to twenty-six hundred (2,600) to twenty-eight hundred and fifty-three (2,853), and we can now add seven (7) more in Manitoba.

Well, actually, we can add quite a few

more. I didn't have 2007 numbers. They don't have a -- they have a December 31st year end, so we have to wait. You can always bring me back to Winnipeg after their 10-K comes out, if you'd like. I like cold weather, so coming here in late February would be fine for me.

Now, if we were to look at specific states, however, let us take a look at Indiana, which is on the middle of the first page. And I just keep coming to Indiana because it has a -- a sliding rate that's lower than the one I recommend.

I recommended seventeen (17), twelve (12), using the same breaks -- oh no, they used five hundred (500), because of course they don't go over five hundred (500) -- five fifty (550), rather.

But you know, it's -- it's similar to mine, except I said seventeen (17), twelve (12) and ten (10) for two fifty (250), five hundred (500), and over five hundred (500). They said fifteen (15), thirteen (13), and ten (10), and they put the ten (10) in at a hundred dollar ($100) lower level. Okay.

So their -- their 13 percent is only two fifty one (251) to four hundred (400). So that quite a number of loans will be -- you know, more loans than under my schedule will be getting that part of -- partly at 10 percent.

So they have a rate, what we say in finance, "dominates" mine in terms of being cheaper for -- as cheap as or cheaper for every loan. Sorry, cheaper for every loan.

And they can only get five hundred and fifty (550). They have a minimum of fourteen (14) days. And we see that Advance America, facing this regulatory regime, has gone from ninety-one (91) stores in 2004 to a hundred and sixteen (116) in 2005 to a hundred and twenty-three (123) in 2006.

So for the concern that everybody will shut down and leave if there are rate caps, it doesn't seem to be happening in the US, even with tighter rate caps than I am proposing here.

And you can see the same pattern everywhere, except of course as I said, if we look at North Carolina on the second page, about six (6) down. North Carolina: 2004, a hundred and eighteen (118), 2005 none, 2006 none. Okay, big surprise, they got shut out in North Carolina entirely.

Pennsylvania, as I said, I'm not -- I don't understand Americans, I don't understand American regulation. So -- but I know that there's a problem, and they -- they detail it in their 10-K. And they went from a hundred and one (101) to a hundred and one (101) to ninety-nine (99), so they're actually hanging on, even though they're getting horsewhipped in -- in Pennsylvania in -- in some way. But they're still hanging on there, but they didn't expand, okay. However, the -- the problems in Pennsylvania are much more serious than any rate cap I'm presenting.

What was the third one? Oregon. Okay. Now Oregon shows where the problems are, because Oregon it's pretty recent what they've done. So if you look at Oregon, which is right in the middle of the second page, they went from forty-two (42) to fifty-six (56) and then they declined. They are, in fact, continuing to close down, but they're having to keep the offices running to clean up. That's the one where it's really costing them.

So they're running -- you know, they've been running, since the beginning of this year, fifty-three (53) or fewer stores in Oregon and, at some point, they had to stop taking loans, stop making any money and keep paying the salaries and then start chasing a bunch of people who said, Ha, we got you, you have to leave. You're not going to have patience enough. We're just going to ignore you and not pay off.

MR. BYRON WILLIAMS: And the limit in Oregon, as of June of 2007, is 36 percent APR. Is that right?

DR. CHRIS ROBINSON: Yes. Yeah, actually, yes, the -- the reg -- we got the regulatory regime here, right. It wasn't that -- it -- it was -- I think it's just 36 percent now. It was -- you know, it's been lowered. It was -- of course, back in 2005, it was at some other -- you know, it was at a higher rate.

So, no, again, I mean we -- we see the consequences of regulating to a rate that's not justified by the costs of the payday lenders. They leave.

But we see that regulations -- rates that look not dissimilar than mine, and they're generally lower, Advance America is expanding. And it's only a monoline, so it has less efficiency of scope than -- than any company dealing with -- that -- that's running several lines of business at once.

Okay. So I'm very glad that the -- I'm -- I'm glad that Advance America moved into Canada and that the Board asked me to do this, because, of course, I could -- I didn't feel it was justified when they weren't in Canada. But now that I've look at them, it gives us some very good evidence.

MR. BYRON WILLIAMS: And I think to be fair, Dr. Robinson, it was probably me who asked you to do this. The Board made me put --

DR. CHRIS ROBINSON: Well, that's true.

MR. BYRON WILLIAMS: -- this material on the board.

DR. CHRIS ROBINSON: Yeah, the Board put this material actually, I assumed --

MR. BYRON WILLIAMS: And I --

DR. CHRIS ROBINSON: I had been told at the same time if you want the real time frame was -- is that I discovered while I was at the Hearings -- or, no, just before -- I got told, Hey they've opened -- Advance America's opened on Henderson Highway.

I got a personal tour of Winnipeg, well, no, of the payday lending districts from Mr. Williams last night, and the -- so, you know, we rode around and looked at all the pawn shops and all the other attractions of Winnipeg which, you know, the sort of things that attract me anyway.

MR. BYRON WILLIAMS: Now, can we move --

DR. CHRIS ROBINSON: Yeah.

MR. BYRON WILLIAMS: Are you prepared to move to alternatives response maybe?

DR. CHRIS ROBINSON: I just want to look at one (1) more thing. Money Mart is not on the table. It has not been expanding or contracting generally in the US. If you wish, I can summarize their stuff as well. They are in fewer states. This is the Money Mart -- I'm saying Money Mart -- Dollar Financial, the US operation. I don't have information on the UK operation that would be helpful to us.

But it operates in fewer states, but it has stores in quite a few states with 15 percent or lower fee caps. In other words, it's not cherry-picking the states with the highest levels. It's just generally competing, but in fewer states. It's smaller. And, of course, it's a mono -- it's a multiline provider, okay.

Okay. Alternatives for smaller communities, okay, so you see the -- the pattern that I believe, the American regulation and -- and all that. It is very clear from my analysis and from the other testimony you've heard, that it will be difficult for operators in small communities to have the volumes that are necessary.

Well, this comes first to an issue of balance, a horse and rabbit stew. Almost all the stores now are in a few cities, you know, I mean, they're in Winnipeg. You know, I saw -- I saw a good chunk of Manitoba's payday lending stores just by driving around a few neighbourhoods in Winnipeg, okay. I will not find them in Arborg and in Gimli and so on; I will only find them in the largest centres.

And, indeed, they're found in smaller

centres in Manitoba than they're generally found in a lot of the country. I don't think there's any communities as small as Thompson that have a pure payday lender in them in Ontario. I can't think of any actually.

However, we know that they can't serve everybody everywhere through dedicated lending. Operation -- I mean this is not a criticism of the payday lenders, you know. I mean, they have to make a living.

And so they're not going to be in the smaller communities. But to protest that -- you know, to -- to try to regulate so that we have fees that allow you to operate in any community you like means that our tradeoff is that the borrowers in North End Winnipeg, who are numerous, will be paying much higher fees for the advantage of a very few people in a very few communities.

I mean that is the tradeoff. So how many smaller stores close and communities lose service versus higher payday fees for every borrower? Okay, that's the tradeoff. And I can only give you expert evidence as to the nature of the tradeoff. Fortunately, you're the ones who have to decide, not me.

Okay, so the alternatives. However, I've -- I'm quite concerned about this. I grew up in a small town of thirty-five hundred (3,500) that got Winnipeg's weather two (2) days later and -- except colder -- and --

and got Winnipeg's mosquitoes the rest of the year and, of course, there would be no payday lender there; at least I doubt it.

However, the Internet knows no borders. Okay? So Mr. Slee and many others -- Mr. Slee is the one who's given us such clear evidence. Mr. Slee is going to get at everybody, telephone lenders.

In fact if you go on and Google "payday loans," you don't get the bricks and mortar. I've tried this. You just get overwhelmed with people, and they're not just from Canada.

You can borrow from the US. I've been told that there's somebody in Malta that's running a payday lending operation; it's headquartered there but will deal with you in Canada. Can't tell where it's coming from.

The credit unions, you have seen evidence from Mr. Whitelaw, seven (7) papers from Mr. Whitelaw. I may say that although I've returned the fee to them, when ACORN originally hired me, it was VanCity that made them a grant without strings to -- to do my report for VanCity.

I gave them the money back so they could use it to do other things. But VanCity was interested, interested enough to put up ten thousand dollars

($10,000) without strings attached.

Alternate Credit Union, Mr. Whitelaw worked for, but he's given you much more evidence on -- on that aspect. And I've also spoken about my experience finding that the American credit unions are doing this.

So they are a realistic alternative and in Manitoba, they are quite strong. They are not, for example, as strong a presence in Ontario. But in Manitoba, they're a very significant part of the financial system.

And so they offer a very credible alternative and they are interested. Now let us just remember something historically.

Payday lending only started in the 19 -- around -- oh, mid 1990s. In 1992, an organization that I founded, called Alternative Perspectives on Finance, had John Caskey (phonetic) appear at our first conference, and he was talking about the alternative financial systems.

And he's been cited in many of these papers, and he -- gave us this fascinating thing about tier 1, tier 2 and tier 3, tier 3 being that, he said, although it's illegal, he knows that there's a financial system in the US operating through the bars.

But he said it's illegal, so he couldn't get pretty good data on it. He only talked about cheque cashers and pawn stores -- pawn shops. He did not talk about payday lending because it didn't exist in 1992, or it existed in such a rudimentary form at that point.

But I cannot believe that our economy has changed such that in 1995 or so, all of a sudden, hundreds of thousands of Canadians needed this arrangement, but they didn't need it previously.

Payday lending has been around in one form or another. And, indeed, Mr. Whitelaw tells the story that he got -- he -- his father worked in Ingersoll and payday loans were made every payday -- were recovered every payday and made every other lunchtime by a guy out of his lunch box with the full cooperation -- literally, out of his lunch box -- with the full cooperation of the company.

This was a known arrangement. Eventually, they actually institutionalized it by giving him a little booth. So he loaned money, you know, until payday and then collected it all back on payday.

And, you know, it was a very efficient arrangement. He didn't have to pay for a storefront or anything. Now, I'm not recommending -- I'm not saying that it's fair to hold the payday lenders against such a standard. I'm simply saying that there are other alternatives. I don't even know what they all are.

But I do know that payday lending is pretty new, and yet I do not suddenly see that the population has changed dramatically. This is not quite, for example, as significant an innovation as the invention of agriculture.

And a reality of Manitoba is that most people have cars, and since most of these people -- I mean interna -- the net present value example that Dr. Buckland made was in fact about somebody whose car broke down and had to get it repaired. Now, I guess if your car is broken down, that's the one situation you can't use the car to get the payday loan.

But, in general, since I don't presume the car breakdowns are the sole reason for borrowing, people in Manitoba, or people in Canada generally, are very mobile. It's only in a few large centres, like Toronto where I live, where any significant number of the population depends on public transit as their only means of transportation.

I'm -- the only people I know who operate without cars, generally, are Mr. Whitelaw and myself. I don't know anybody else.

So consequently, Manitobans -- and, of course, if you take a look at your population -- take a look at the maps where all the payday lenders were clustered -- nobody's very far from one (1), not by Canadian standards.

You know, I mean I -- we used to drive eight hundred (800) miles to Toronto in two (2) days. So for somebody in Manitoba to drive to a payday lender that's fifty (50) or seventy-five (75) kilometres away is not such a huge imposition.

Yes, some people will not be able to do that. But if -- if they can't do that, I'm not too sure how they're doing their shopping, unless they live in Winnipeg or another major centre, or doing anything else either.

Now, since the payday lenders, however, embrace competition and have said that competition is extremely important, I think that we should look at this as an opportunity that I'm offering them -- that this is the opportunity for innovation -- because the biggest risk is too little loan volume.

So you've got to find ways of gaining economies of scale and scope. I don't think that we can reasonably regulate to justify payday lending as a stand-alone operation all the time. Maybe in the big cities, maybe Advance America can do it, but I don't think it's reasonable to expect that that is what will happen.

So I -- I've given some examples. But I'll just -- I'll start out actually with the example that I -- I noticed yesterday. You know, I hang around payday lenders a lot. I walked by the Money Mart. They were closed, so I -- I had to go without dinner.

But I walked by Money Mart and I saw something. I mean, every time I walk by a payday lender, I see something new. So, go by Rentcash and they're offering title loans now. Go by Money Mart and they have a rack of all the pre-paids that you'd normally find in small general stores in Toronto in highly ethnic areas: prepaid phone cards, prepaid Internet access -- I forgot what the others are now -- but a rack of these different cards that have an association.

The same sort of people who are taking payday loans may well need those. They may not have their own phone or they need a prepaid phone card for their cell phone because they can't afford to be on a plan. They have to sort of pay it as they can go. And so Money Mart is using its storefronts to put through more and different things.

Now, I don't -- don't pretend that this will replace payday lending. However, I would draw your attention to something also filed with you which is the Rentcash annual reports, where they report that last year they were -- 11 percent of their revenue was coming from non-payday products and this year, 17 percent.

So Rentcash has -- you know, is -- understands the business, too, and they're doing exactly what they have to do, which is expanding their economies of scope. So I think though this is going to be important.

Now, when I was cycling in Manitoba with my wife in the 1980s, I think it was no different than it is now. We were out in the farm country, and none of these places are going to support payday lenders, but they all support general stores.

So we -- we would cycle into the general store and anything we needed -- well, anything -- anything we were going to need: you know, food, coffee, somebody to talk to, clothing, ropes, a lot of things we didn't need -- were all there in one (1) store.

And these guys couldn't have operated alone if they were selling, you know, if the -- I didn't see any apple stores, okay, they were selling apples and pears.

And so this is, I think, the reality. We are seeing, for example, Blockbuster -- which is a stand-alone, one (1) product firm -- is in deep trouble in the US and Canada because it's being destroyed by Internet.

Blockbuster's going to have to find a way out.

I'm not sure they're going to find a way out, but in small Manitoba communities, as you know, if you want a video, you go to the general store and they have a selection of videos. They don't have all the back titles, but they have the latest hot releases.

And, so, that's what the small -- so that, and they also sell you bus tickets. And what I -- and what I think is the future of this one is that the payday lenders are going to expand their volume and their business by operating through these stores. At this is one opportunity I see. And the challenge for innovation is to find out how to do it.

So if they want challenges in innovation and their, you know, the problem is that the rate caps I'm proposing are going to prevent all this because they're going to prevent competition, I say there's where the competition is. That's how you get your innovation.

I've referred in my evidence to the -- the Hock King in a Laundromat in Wasaga Beach. So this town of twelve thousand (12,000), which is largely a vacation community, has at least two (2) payday lenders. I can't find any others, but that doesn't mean they aren't there. And one (1) of them is in a Laundromat and the other's in the place where I bought a used guitar for my son.

And they're operating those businesses, and they're asking for the same evidence, or same documents, and so on as -- as the regular payday lenders. Of course, they're not registered with anybody. There is no registration in Ontario.

A hardware store in Morrisburg, Ontario, in 1867 -- my family were United Empire Loyalists, and one (1) of the family names -- Bradfield (phonetic) -- is still to be seen on a hardware store in the main street today.

In 1867 they had an advertisement out which I got out of Upper Canada Village, and there was -- there was my ancestry in commerce. I guess it was natural I would take such a degree, because it was nails, beer, dry goods -- I especially like the beer part -- insurance -- they would sell you life insurance -- and then the most important part of it was goods bought and sold cheap.

And so if they could sell life insurance, I mean, I know we're not letting -- we don't want banks doing it, but they're doing it anyway. And I'm not suggesting that the payday lender should go into life insurance, although they are selling insurance in a sense, some of them. But that is a sort of thing that -- that is the opportunity.

MR. BYRON WILLIAMS: Now, Mr. -- Dr. Robinson, I just want to interrupt you for a second. Mr. Chairman, just in terms of where we are, Dr. Robinson has a very brief summary of his conclusions, and also Dr. Buckland has a -- a brief summary of his recommendations.

If you'd like to give us a fresh start for the -- for the afternoon, we could finish up with -- with this, or we could start in the afternoon. I'll -- we're -- I'm guessing twenty (20) minutes we have remaining. So I'm totally -- or the panel is totally --

THE CHAIRPERSON: Okay, we will take the break now, and we'll be back at 1:15.

MR. BYRON WILLIAMS: Thank you.

DR. CHRIS ROBINSON: Okay.

--- Upon recessing at 12:12 p.m.

--- Upon resuming at 1:19 p.m.

THE CHAIRPERSON: Okay, Mr. Williams...?

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Thank you.

Dr. Robinson, I wonder if you can provide a brief summary of your conclusions, please.

DR. CHRIS ROBINSON: Thank you.

All right, this is the horse. This is the basic recommendation. So restating it, 17 percent on two fifty (250), 12 percent on the next two fifty (250), 10 percent on the rest, plus a ten dollar ($10) fee only for a first-time borrower. That's the horse. You'll recall that's where virtually all the revenue for the payday lender is coming from.

So when they're talking about fifteen (15), twenty (20), twenty-five dollars ($25) on a hundred (100) or something, this is my specific recommendation as the fee cap. It is based on allowing an efficient producer to make a fair rate of return. And I've shown you evidence that suggests that efficient producers should be able to operate and are operating at this level now.

Replacement loans: Ten dollars ($10), plus 1 percent per week. That's to end the -- the rollover practice. You'll recall the story of John and Anita and the necklace, and the disastrous results it had on their life.

And so we want something that provides an incentive for the borrower to repay. It allows the borrower to have a somewhat longer loan within the rules that are provided and not pay outrageously for it, but allows the payday lender to -- to make some money on that loan as well -- on that extension of the loan.

If they don't cooperate, I suggest that you -- that is if they don't -- they don't come up and talk to you about it first and make life more miserable for you, a greater incentive and more money to cover the costs that the lenders has by chasing them. Twenty dollars ($20) in addition to the replacement loan and NSF costs if incurred, just the costs, not, Oh well, you know, another seventy-five dollars ($75).

The alterative for the initial payday loan is 17 percent of the entire loan. So those are my -- that's -- so this is the horse. Well, this is the horse and some rabbits as well, I guess I should say.

The US experience with rate regulations supports the reasonableness of my proposed cap. You have seen that the great majority of the US states are regulating at below this cap. Those that are above it -- there are very few that are very far above it, so most of them are below it.

And we have every -- including small-population states -- we have every reason to believe that Canadian experience in this sort of a business would be very similar to American experience. After all, the largest single payday lender in Canada is a subsidiary of an American firm and the largest payday lender in America has just landed with a big thump in Manitoba.

We see that the -- that largest lender is in fact expanding under regulation in many states, including states with regulations that -- with caps that are lower than the one that I propose.

So this supports the reasonableness -- but not dramatically lower. Okay? We're not speaking about there -- that there are a whole lot of states that are charging 10 percent or limiting it to 10 percent, and we see that if they go too far down that the payday lenders do exit. They simply cannot compete they -- or not -- they cannot survive.

There are alternatives for smaller communities. The alternatives that I present are primarily -- well, they're two-fold. One is the -- the world is not -- the world is much smaller than it used to be due to cars, telephone and Internet. And Internet is widely available now. But one way or another you can get a payday loan from almost anywhere in Manitoba if you need one.

When I made the comment on the -- on the record, somebody read those comments -- Mr. Whitelaw -- and immediately proceeded to send me back an email in which he showed me an advertisement for somebody. And I was commented on the record, I said, Well there's -- you know, this is how you get the loan in Arborg and Gimli.

And he sent me back an advertisement from a telephone payday lender -- not 310-Loan, another one -- which they said, We'll lend you the -- they were talking -- they called it "Ontario," but they were talking about: We will lend you even if you are in -- and they said literally, I mean, every community in Manitoba including Arborg and Gimli. Said, Sir, if you need a loan and you live in Arborg, here's the phone number, phone us. And -- but that is of course a phone lender.

The alter -- the other alternative is for the businesses to combine, to take advantage of the economies of scope to run enough volume through any storefront with all its costs.

And whether it's the Liquor Commission in Souris or the far northern stores of the -- of the old Northwest Fur Company dealing with First Nations communities or it's the general store in a little Ukranian community that I stopped in for coffee, it's the same sort of thing.

They could also be doing payday lending, cheque cashing. They'd probably have much lower costs and much lower default rates because they, of course, would know everybody they deal with.

But I, of course, don't know all the ways that you might do this. I mean that's part of the business. The -- the Intervenors know their business better than I do and they will have a lot more ideas than I do about that.

And the lenders won't all disappear with the proposed rate cap.

I believe that the numbers I've presented to the Board are sound, they are verifiable, they are based on the actual experience of payday lenders who are doing as I've shown. Already, 50 percent of the volume in Manitoba is Money Mart.

And if I were to refer back to the Advance America, you'll see on that table a number I forgot to mention at the time, what the average fee charged by Advance America is.

They of course, con -- conform to the law. The law as we saw in the table, goes to -- from no limits down to less than 15 percent.

Their average rate -- average fee as a percentage of loans varies somewhat but it's less than 16 percent on each of the observations. Never goes higher than 15.7 percent. That tells us two (2) things.

One, it tells us that they -- well, it tells us they are probably staying withing the law as they claim and they are able to make money at less than

16 percent which is lower that the cap that I provided -- that I have recommended.

Second, it isn't a constant rate across the United States. You can't in fact get their rates. If there is no regulation or if there's a very high fee cap they would charge higher rates. It's as simple as that.

There is no evidence of rate competition in the market now and Advance America clearly charges higher in whatever jurisdiction it's in because it can do so.

It says in the reports that are on the Board's evidence that it charges between 16 and 22 percent depending on the State. So the lenders aren't going to disappear with the proposed rate cap but if there is no reasonable rate cap, there will not be in my opinion, any particular fee competition and I think the evidence supports that.

That concludes my direct evidence.

MR. BYRON WILLIAMS: Thank you very much, Dr. Robinson.

Just -- Dr. Buckland, if you could just finish us up with some recommendations that you may have.

DR. JERRY BUCKLAND: Yes, thank you very much.

I have a series of recommendations that I'd like to make that flow from the research that we undertook for the September report "Serving or Exploiting."

The recommendations have to do with issues that don't tie directly to the -- the job that the Board is looking to do, and that is to set a cap for fees, but the recommendations do flow from the research. And I think they point out the fact that payday lending really does point to a -- a complex social and economic phenomenon and I think that they -- they are consistent with the recommendations that Dr. Robinson has -- has made.

So I'd just like to run through the six (6) recommendations. These have been slightly revised since the report of September.

First of all, the -- the question of fair disclosure of information, and there's sort of two (2) sub-points here: Disclosure of fee information and then disclosure of loan rule information.

Payday loans -- payday loan fees usually involve a variety of different fixed and variable fees or a percent of the loan amount.

It is not easy for a consumer to calculate the total fees for a given loan amount. It is also difficult for the consumer to calculate an annualized interest rate, such as an APR.

The APR would allow the -- the consumer to compare payday loans with other types of credit, so I think it's important that the consumer has that information.

For these reasons, we recommend that the total lump sum fee -- that includes every fee charged and the annualized interest rate, such as an APR -- information be available to clients in pamphlets, posters, and through conversation with staff.

Now this point may appear redundant given that the upcoming regulations require payday lenders post fees using a common format.

However, I include this recommendation for two (2) reasons. First of all, the need for fair disclosure of price information flows from our research results, so that we want to reinforce the need for fair disclosure.

But secondly, I wanted -- I think it would be helpful if the government regulator experiments with different amounts of information that is required in order to determine the optimal amount of information.

Experiments on credit have shown that too much information and too little information can hurt consumers. What is needed is a balance -- a balanced amount of information that informs consumers without overwhelming them.

The second sub-point under fair disclosure has to do with the rules regarding the loans. As with fees, the rules relating to payday loans should be fairly disclosed.

By loan rules, I refer to such things as consumer personal information disclosure; method of repayment; rollover, repeat loan default rules; payment deadlines; contract; default penalties; etcetera.

Since loan rules vary across firms, it's important that either the rules become more standardized or that each firm be required to more clearly explain the rules to consumers.

As with standard disclosure of fees, standard disclosure of rules will allow consumers to better compare loans among payday lenders and with other types of loans.

My second recommendation has to do with personal information from the consumer. The field research found that payday lenders ask for a lot of private information about consumers, including information on employment; residence; banking; Social Insurance Numbers; and references.

In some cases, the amount of information required escalated from what we called the inquiry mystery shop stage to the actual loan stage.

It is not clear how the firm uses some of this information. In some cases, the staff could not explain to the mystery shopper what would be done with this information.

In one (1) case, the mystery shopper could read other client's names on files located nearby.

We realize, of course, that payday lenders need to have access to information about consumers in order to make good judgments. However, the need of the lender must be carefully weighed against the privacy needs of the consumer.

We believe that the privacy -- the private information that payday lenders collect should be minimized, standardized, and advertised to the consumer so that the consumer knows ahead of time what's required of them.

Moreover, this information must be confidential and destroyed according to privacy rules, of course.

Just to mention that in our mystery shopper -- mystery shopping exercise, we did find one (1) payday lender that provided a very useful privacy notice that might be a --an interesting format to make consumers aware of their rights regarding personal information.

The third recommendation I want to make has two (2) sub-points, and relates to the question of multiple loans.

A payday loan is a short-term loan lasting usually one or two (2) weeks. However, in some cases consumers may find that they are unable to repay the loan on the payment deadline. This problem has been addressed by some lenders by offering clients a rollover or extension of the loan period or by offering the clients another loan to repay the first.

In other cases clients may go to another payday lender for a second payday loan to pay off the first payday lender.

Of course, it's understandable that firms and consumers both feel pressure for these types of extensions. They're very short-term loans, firms want them to be repaid, consumers sometimes can't repay them.

The concern is that rollovers and repeat loans can too quickly add up to become large fees for consumers. Moreover payday lenders themselves will be hurt if their clients are suffering because their client base will decline. For this reason we recommend the following concepts be considered.

First of all, regarding rollovers, just to tighten my definition of what I refer to as a rollover in the September report, I wanted to define what I call a "classic rollover."

By "classic rollover" I refer to an extension of the repayment deadline that involves escalating fees and/or adding fees to the principal leading to a rising annual percentage rate.

This type of rollover involves rapid increase in fees and increases the likelihood the consumer faces a large debt.

Payday loans are intended to be short-term loans paid off on payday. Extending the deadline of repayment extends the loan and transforms it into something other than a payday loan.

For this reason we propose that the classic rollovers be disallowed and that consumers be informed of this fact from the beginning of the relationship.

However, if fee caps for replacement loans are set at the level suggested by Dr. Robinson, which involves a fixed fee, for instance ten dollars ($10) and a small interest rate, for instance 1 percent per week, then I believe that replacement loans should be allowed and I support the fee cap for replacement loans recommended by Dr. Robinson.

The reason why I support this recommendation is that if -- if a consumer does -- does replace -- sorry, if a consumer does require a replacement loan, under Dr. Robinson's recommendations the consumer will pay a lower fee at the end of the second cycle and in fact the APR will decline.

A -- a second sub-point under the multiple loan question has to do with the -- what seems to be a significant phenomenon of repeat loans or re-loans.

There is evidence that repeat loans are quite common for some payday loan clients. One Canadian study found that 26 percent of payday loan clients use payday loan and cheque cashing services at least once a month.

From our mystery shopping we found that getting a rollover or repeat loan was possible in three (3) of the four (4) cases. Data from the US raises concerns that repeat borrowing may be creating problems similar to rollovers.

If consumers are borrowing from -- from one (1) or more lenders several times per year, particularly if this is done serially, then it once again raises the question about the nature of the payday loan. It is intended as a short term loan, but if consumers are borrowing back-to-back loans this suggests they are using the loans as an extended loan. Yet the rules and terms for the payday loan are such that they are not designed for this type of extended use and negative consequences for consumers can be aggravated.

We cannot offer a specific recommendation on what the optimal or maximum number of payday loans might be. Ernst, Farris, and King -- as we referenced in "Serving or Exploiting" report in September -- make the cutoff at four (4) payday loans per year and argue that the term for the payday -- payday loan should actually be extended to three (3) months, because they don't feel that fourteen (14) days is a sufficient time frame for consumers to pay off a loan.

I am personally not willing to recommend a frequency cap like that. What we -- what I do recommend is that more research be undertaken to determine beyond which frequency another payday loan will be hurtful to the consumer.

This research would be particularly successful if payday lenders would cooperate and provide data on their experiences with rollovers and repeat loans.

We note that even if lenders were limited in terms of the numbers -- the number of times they can loan to a particular client each year this leaves open the issue of repeat borrowing among a number of lenders. It is not clear how this might be addressed, but one option is to consider some way to centralize information about payday loans via credit reporting, which is my next point.

So recommendation Number 4: Consumer Credit Reporting. The rapid rise in popularity of payday loans raises many social and economic questions. The industry is hounded by the question of its legitimacy: Do they exploit or serve their customer?

A core sub-question is whether the payday loan itself is a legitimate service. We argue that if payday loans are a legitimate type of loan -- ie. consumers are by and large served by them -- then consumer experience with the loan should count towards their credit report. In so doing, consumers who repay their loans in a timely fashion will see their credit report improve and possibly increase their reliance on mainstream forms of credit.

I noted on a recent trip to Ontario that one (1) payday lender in that Province is now advertising that clients can take out loans at that payday lender outlet and improve their credit rating. I didn't look into it in detail but I -- I did notice that advertisement.

Central reporting on payday loan experience could assist payday loan firms to reduce their risks by providing them better information about their clients and help firms avoid lending to consumers facing too much debt and/or too many payday loans.

However, we have not concluded that payday lenders and loans are always serving their clients. With many low and modest income Canadian clients and with a large fraction of customers returning monthly, some clients may be experiencing Mayer sufficiency relative advantage exploitation.

Because of the coexistence of evidence of both service and exploitation we not willing to recommend that payday loan experiences appear on clients' credit reports. It is all too likely that these experiences could negatively hurt the consumers and their future credit options.

We recommend that once the payday loan industry is better regulated and once all firms follow good business practices, such exploitation is minimized, that the question of credit reporting be reconsidered.

I did note that recently looking at the Financial Consumer Agency of Canada's website, a new firm called Teletrac Canada, a US-based subsidiary of Teletrac

-- or a Canadian-based subsidiary of a US firm, Teletrac, plans to set up operations in Canada.

Presently, Teletrac provides credit reporting-type services to payday lenders, rent to owners, etcetera, in the US. This service may assist payday loan firms and possibly reduce excessive lending to particular clients but I -- I really have no information, no detailed information about their operations.

The fifth point I wanted to make is in regards to monitoring payday lenders and payday loans.

Credit is an important and quite special product. It's not like clothing or food in that credit involves a liability or a debt to the consumer. More so than the grocer, I believe that credit providers need to carefully monitor their credit product, their clients and their operations.

Without careful monitoring of their operations how -- how can they be sure that their credit product is sound and ultimately that their business is viable?

One of the -- the limitations we found in undertaking our research for this report is the paucity of data on payday lenders in Manitoba. Even authoritative lists of firms and outlets do not exist.

We recommend that government authorities monitor payday lenders and their activities on a regular basis. The monitoring may involve data reporting from lender and/or other methods such as mystery shopping.

Annual data should -- should be included for various jurisdictions and could include such things as the number of outlets, number of payday loans by outlet, number of clients by outlet, average median and range of payday loan size by outlet, number of default rollover and repeat loans, average median and range of consumer income by outlet.

I believe that careful payday lenders are likely already collecting much of this information. For instance, I would think that a careful payday lender already collects information such as the number of outlets, the number of loans per outlet, the number of clients per outlet, the number of loans, the number of defaults, the number of replacements.

Information such as loan size and range would be simple to calculate from a list of loans in a given year. I know that providing these data would not require providing the regulator with personal information of consumers.

So the final recommendation has to do with improving access to mainstream financial services for many Canadians. The evidence shows that some payday loan clients have some problematic financial experiences, for instance: Poor credit rating; lower income; difficulty paying bills.

In addition, I have made the case that structural changes in the economy and with mainstream banks have meant that for many consumers it is difficult to access mainstream banking services. These factors that help to explain the rise of payday lending must be addressed by providing appropriate financial services to people who are under and unbanked.

This might be done through collaborative efforts of mainstream banks, financial support organizations, and for particular under-served groups with community organizations.

Fringe banks, and I include payday lenders, may be another important partner, particularly when they follow good business practices.

The key services I would identify for accessing mainstream bank include access to small sums of credit and as well as savings programs; both of which could offer alternatives to people who have to rely on payday loans.

Secondly, the -- the whole question of financial literacy, which, now in Canada I think the more accepted term is "financial capability," that we need to improve the efforts to increase the financial capability of Canadians, their ability, their understanding of financial management. And this could be done through things like access to credit counselling; financial management; and credit repair and credit rate building.

So that ends my presentation on recommendations. Thank you very much.

MR. BYRON WILLIAMS: Thank you.

Mr. Chairman, from the perspective of the Coalition, this concludes the direct evidence relating to the expert evidence -- the expert witnesses they've retained.

I'd note -- I -- I believe I'm going to -- before I -- I make my witnesses available for cross-examination, My Friend, Mr. Hacault, may have a -- a couple comments he wishes to make.

And I would make this point, and the Board will be familiar with this from past proceedings, the -- my clients retain their experts, they listen to them carefully, as they do to the whole record, and they tend not to adopt a final position til -- till closing argument.

Now, I -- I should say I've had some concerns expressed to me by both the counsel for -- for

Rentcash for -- for some time now, but also today from counsel for the CPLA, that they have a desire earlier than that to know the position of my client in -- in terms of some key recommendations.

So they -- they may feel that they have -- have some unfairness to them, so I -- I wish to -- before I present my witnesses for cross-examination -- just -- I believe they may have some -- or at least Mr. Hacault may have some comments he wishes to make.

THE CHAIRPERSON: Thank you, Panel. Thank you, Mr. Williams.

Mr. Hacault, do you have something to add?

MR. ANTOINE HACAULT: Perhaps just to explain that briefly, Members of the Board.

In most administrative proceedings in which I participate, for example, the Municipal Board Land Value Appraisal Commission and other administrative boards, the position of the party is known at the outset. What -- where you're -- where you're going from.

And that's a key thing for the parties to be able to prepare their cases adequately and know where they're headed, and -- and the information that they either want to challenge or that they have no issues with.

So I had asked my colleague some time ago, and we had presented our position so that the people who were presenting evidence knew what it was, that it would be useful because otherwise we may be in a position -- I still don't know what his final number is and how the formula is and -- and how his evidence fits to support that or not, and -- and whether I should be prevent -- presenting additional information to answer any -- any new things or concerns that might be in that proposal.

So it just makes it difficult, I have found, to kind of anticipate what's happening and -- and to make sure that the Board has full information on any proposal that might be presented at one (1) point in time.

And that's why I -- I raised it with my colleague and I'm raising it with the Board.

THE CHAIRPERSON: Mr. Foran, do you have something to contribute?

MR. ALLAN FORAN: I hope I do.

THE CHAIRPERSON: We will see.

MR. ALLAN FORAN: My client is concerned about several things.

It's been expressed already that one (1) of our concerns is that, over the course of the last few days there's been a substantial amount of new evidence that's been provided that we're certain is going to require us to prepare rebuttal evidence.

So that -- that's the first comment. And -- and that primarily, I should tell you, relates to Dr. Robinson's reports. And I -- I believe Dr. Robinson has conceded in his evidence that there has been many twists and turns to get to a -- a final presentation, but that being said, we've now received it.

In context, what we don't have is I don't see anybody so far that's presented evidence, apart from experts, from the Coalition.

Every other Intervenor has produced a representative who has expressed a position, has then referred to expert reports to come to certain conclusions and, I believe, there have actually now been specific recommendations on rates from CashX, 310-Loan, Rentcash, CPLA.

I -- it -- it occurred to me recently that, although I think I assumed that the Coalition position was going to be on a fee rate -- whatever Dr. Robinson proposed -- it's now been brought to my attention that that's not necessarily true.

And so, as I embark upon cross-examination, I'm still left with doubt as to what I'm cross-examining on when it comes to -- to fees, particularly.

So my client is very concerned that all that's going to happen here is we're going to spend a lot of time on evidence and then show up at argument and then be forced to address, for the first time, what the merits of the case are that we're being asked to meet.

One (1) final point is that I think that Mr. -- My Learned Friend, Mr. Williams, has indicated that in many hearings this Board has received CAC/MSOS or in this case, Coalition positions in a -- in a similar way, and that it's not a surprise.

And it's -- it's not a surprise, except it's been pointed out to me this is a different Hearing. This is new. Everybody has said this is a first time and I think, out of fairness, at least CPLA is interested in knowing what is it that the Coalition is asking this Board to do?

THE CHAIRPERSON: It is not actually the first one. I think we had the first experience with cheque cashing in a sense. And in these proceedings, we do not have an applicant.

As Mr. Hacault's referring to with a Municipal Board, I would image that it would be the same with some other Boards.

Usually when we are dealing with monopoly utilities, they come with an application and the various

Intervenors make comments. And Mr. Williams is correct; oftentimes the Intervenors may put forward witnesses who offer their expert advice.

But it does not necessarily bind the Intervenors to the position that they take in closing argument. This is not a settlement process in the end.

The Board is charged with the sole responsibility of, in the end, determining what the maximum fees are.

I understand your concerns. We are trying, through the process, to provide as much flexibility as we can to ensure that at the end of the day, your clients believe that the process has been fair and you have had, you know, full opportunity.

We will consider the comments further when we have a chance ourselves, maybe at the break or later, but we are familiar with different types of processes. But again, in this particular one, there is no applicant.

So our goal in having this Hearing, from our perspective, is to learn information that will help us reach our determination. And the witnesses that you have put forward and Mr. Hacault has put forward and the Coalition has put forward have all been towards that end.

I do not think that you or Mr. Hacault or your clients are bound by the comments that you have made to date in your closing remarks. It is possible that Mr. Williams' clients may ponder all the information and come to a different type of recommendation.

But the end, they are all recommendations. We will end up having to wrestle with it. Ms. Southall, do you have any contribution to this?

MS. ANITA SOUTHALL: No, I -- I -- just to echo very briefly the remarks of the Chair, from time to time in -- in discussions in the pre-oral hearing process with counsel for the Intervenors and with unrepresented Intervenors, I have pointed out that the administrative process is different than the court process, as -- as a comparison model.

There -- there are no parties here, apropos the comment of no applicants in this process. There are no parties here with a case to make. There is no onus, there is no responsibility to meet a threshold of probability or any other standard in terms of evidence.

And, as a reminder to everyone participating, the rules of evidence don't bind the Board pursuant to Part 1 of the Public Utilities Board Act that has been brought into the procedural process by virtue of the Consumer Protection Act Amendments.

So I'll stop there, but I just to -- just to add that -- that brief additional part of the -- of the legal process that's being applied in the process that we're now in -- just to highlight those few points, thank you.

THE CHAIRPERSON: Thank you --

MR. BYRON WILLIAMS: Mr. --

THE CHAIRPERSON: -- Ms. Southall. We --

MR. BYRON WILLIAMS: Mr. Chairman, if -- if I might, and I -- I don't mean to -- I do appreciate My -- My Learned Friends putting their -- their comments on the record, and I can assure them that I'll be making an excerpt of their actual points.

I've discussed with my clients because I'm -- I'm quite confident that our approach, to date, is consistent with -- with the rules, at the same time mindful of the concerns My Friends have expressed.

I've suggested to my clients that we -- now that the -- the expert evidence is in, at least in direct form, that we make best efforts to -- to share something earlier with My Friends than -- than we normally would.

And I'll -- I -- I do that on the record and hopefully we'll give them something that will give them a -- a better target to aim at in the -- but I -- I can't guarantee it, from my -- my clients' perspective, when they will make their recommendation.

THE CHAIRPERSON: Well, we are not requiring any party to make a recommendation through this portion of the Hearing, or even in closing remarks for that matter. But we are very appreciative of the evidence that is put before us and the contributions made to our understanding of it.

And, further to that by the way, Mr. Buckland, with respect to the recommendations you were just putting on the table, we are still not confident to the full point of our understanding of the origins of payday lending, despite all of the volume of material that has been put before us.

It would appear that there is a very large differential, if you like, on an APR basis between the mainstream banks and the payday lenders. And if memory serves us right, at one time there was a stratum of lenders that were called "finance companies" that operated APRs that were considerably higher than the mainstream banks.

And I take it they have largely left the field?

DR. JERRY BUCKLAND: Well, actually I'm aware of a group of lenders that are probably larger in number in the US that are referred to a sum -- "sub-prime lenders." Some of those banks do operate in Canada.

So, for instance, City Financial, I think, Wells Fargo, these are companies that my understanding is they will provide loans at a -- an interest rate that's somewhat higher than what one would get at one of the mainstream Canadian banks. And they would be available -- people who would go there would be working at sort of credit repair type work. They would not be able to get loans from -- from RBC or Assiniboine Credit Union.

THE CHAIRPERSON: Well, in days gone by there was companies like Avco, Beneficial, Household, Trans Canada, probably a host of others. And they are not familiar names anymore in the cityscape.

DR. CHRIS ROBINSON: Mr. -- Mr. Chairman. Yes, you're correct. Those have almost entirely disappeared, though Household Finance still exists. Somebody else bought Avco. What has happened, to a large degree, is that in fact the banks took enough of their business that they couldn't compete. They also took their staff.

What the banks did was they developed their overdraft protections, lines of credit, etcetera. Banks, not very long ago, used to be very limited in the forms of loans that they would make. And it was not required by law. That's just their choice so that they didn't do a lot of the financing loans. Car loans have been taken over by General Motors Acceptance, by the acceptance corporations for each of the major car companies.

So that what's happened to the -- the finance companies is that a large chunk of their business got taken away so that they didn't have the volume that would allow them to make this.

And just as I'm sure is happening now, people are becoming trained at payday lenders at being expert credit assessors on limited information. The banks took -- well, in fact, banks were taking all along -- they'd let them go and train at Household Finance and Avco, and then scoop up the best ones and make them credit managers at the banks.

I have taught many such bank credit managers in my years, and that's -- they told me quite happily that's where they came from.

We may see the same thing happen here in the situation where some payday lenders are not willing to continue or unable to continue under whatever fee regulations that you propose.

But, in fact, the expectation is that the staff, they will not disappear from the economy the way Dr. Clinton suggested. And they haven't, you know, just as Avco and Beneficial haven't disappeared. They have, in fact, been absorbed by other institutions, and the staff, likewise, who are now become knowledgeable and educated in -- in finance.

THE CHAIRPERSON: So these other firms, you were talking about Wells Fargo and Citi Financial and that they are the ones that are buying the conditional sales contracts and things of that nature?

DR. CHRIS ROBINSON: Yes. They're tending to look, as far as I can tell -- and again, this is something we don't have good data on. They -- the mainstream banks don't want to get into that particular business yet. So it's sort of the business has been divided differently.

Banks and credit unions have taken various pieces. The finance companies disappeared. Some of what the finance companies were left, wholesale banks like Wells Fargo have decided to take that.

Wells Fargo also finances some of the payday lending operations in the United States. Other banks won't touch it with a barge pole and it's a matter, I understand, of reputation of how you appear in the public eye.

And, so it -- it becomes, you know -- it -- should we say, it fragments. What you do is you have a pattern of loans where, for example, you will remember the trust companies used to not be able to make -- sorry, was it trust -- banks not used to be able to make mortgage -- housing mortgage loans.

They went into that market. We now have no trust companies left, because eventually the banks bought them all. There was no difference.

So the same thing has happened here. The banks have taken a piece of the business; the credit unions have taken a piece of the business; the finance companies have disappeared; and the piece of the business that -- that my father used from a finance company since he was -- he was paid by the government, which meant that you had to wait months before they figured out when they moved you whether -- how to pay you. He went to a finance company because he wouldn't have any money to live on.

Interestingly, the finance company told him to go back to the bank, because he could get a loan there. So that's sort of how it's -- it's broken out. And that's why those names that we're all familiar with -- or at least those of us who are old enough to remember it -- they've -- they've gone.

And payday lenders have taken the other piece, the unsecured piece that didn't have a car to be secured, didn't have a house, and wasn't necessarily a good credit rating. Though often people who went to -- just as the payday lenders have told us -- people who went to finance companies are the same people now who go to payday lenders because they are, for one reason or another, not comfortable in a bank.

Either they can't get the loan or, for some reason, they're not comfortable. And, you know, it's hard to sort those -- those pieces out.

But that's sort of how the market has -- has changed. That's how the history has changed.

THE CHAIRPERSON: Thank you, sir.

Ms. Southall, do you want to begin with the cross-examination?

MS. ANITA SOUTHALL: I -- I think the plan was for Mr. Foran to commence cross-examination on this segment.

And I believe the intention for the cross-examination, which will take place today and tomorrow, is to commence with cross-examination on the Coalition's panel, likely with the exception of Dr. Robinson's testimony.

But, of course, to the extent that there are Intervenors who wish to cross-examine, including Dr. Robinson, I believe he'll remain present.

I see Mr. Williams nodding his head, so -- but having said that, I believe first up with Mr. Foran and CPLA will exclude the Dr. Robinson cross-examination.

I think I'm correct, Mr. Foran?

MR. ALLAN FORAN: Yes. We're -- we're not in a position to cross-examine Dr. Robinson right now, so the basis on which we are conducting the cross-examination is twofold.

One, we will cross-examine the five (5) other members of the panel. That excludes Dr. Robinson at this time. And then at the end of the cross-examination of those five (5) participants, we're going to leave the cross-examination open so that we can come back to them with additional questions as we are in a position ultimately to cross-examine Dr. Robinson.

MR. BYRON WILLIAMS: And, Mr. Chairman -- and this I should have done before. I have a couple of organizational things.

If we could stand down for three (3) minutes, I have to reshuffle my panel, and --

THE CHAIRPERSON: That is fine, sure.

MR. BYRON WILLIAMS: -- and we'll check about our audio/visual presentation, if we can shut that off --

THE CHAIRPERSON: Very good.

MR. BYRON WILLIAMS: -- as well.
THE CHAIRPERSON: Thank you.

--- Upon recessing at 2:01 p.m.
--- Upon resuming at 2:10 p.m.

THE CHAIRPERSON: Okay, we are all back in place, so Mr. Foran, it is over to you.
MR. BYRON WILLIAMS: Mr. Chairman, just -- and I apologize for keeping interrupting My Friend. I forgot to mention earlier today, we had scheduled for a panel to be on last week, so Dr. Carter is in London, England if -- if you're missing him here.
Dr. Simpson has a scheduling conflict tomorrow afternoon, and I'll -- so I'll perhaps chap with My Friends from the other parties and -- and we'll chat about the schedule as we go along.
THE CHAIRPERSON: Yes, let's make the best use of the time that we can even if -- whatever we have to fit into the New Year we will. Okay, Mr. Foran.

CROSS-EXAMINATION BY MR. ALLAN FORAN:
MR. ALLAN FORAN: Thank you, again. Good afternoon. And firstly, I -- I had anticipated Dr. Carter being here and so when I made my comments about

cross-examining five (5), it's now four (4). If anybody would like to leave, it may accelerate it.

So I -- I'll preface my -- my comments if -- if -- with just a little bit of latitude. What I want to do -- to do is to start, Mr. Osborne, with you -- and I was going to just preface my comments by getting an understanding of the work that you and Ms. Friesen performed -- so with a little latitude here.

My understanding is that Dr. Carter oversaw the mapping and the information gathering that was performed, Mr. Osborne, by you and Ms. Friesen?

MR. JOHN OSBORNE: Yes, and Dr. Buckland as well.

MR. ALLAN FORAN: And, ultimately, the day-to-day mapping exercise was conducted by you, sir?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: And you prepared all the maps?

MR. JOHN OSBORNE: Yes, I prepared the -- the maps.

MR. ALLAN FORAN: And were you in charge of collecting all the information that was used to -- to be put onto the mapping?

MR. JOHN OSBORNE: Yes, I was the main -- main collector of information of -- you mean of -- of the outlets and the locations?

MR. ALLAN FORAN: Correct.

MR. JOHN OSBORNE: Yeah.

MR. ALLAN FORAN: And did Dr. Carter provide you with any advice or input as to how the maps should be portrayed or what they would look like?

MR. JOHN OSBORNE: Yes, that was all discussed, including what indicators to use and -- we used -- we used -- I used a similar format to many of the maps I've made for many of the projects I've worked on with Dr. Carter at the Canada Research Chair.

MR. ALLAN FORAN: Okay. And I understand that your expertise or your -- the thing that you brought to -- to this team approach was your ability to use the mapping functions, the computer generated mapping?

MR. JOHN OSBORNE: Yes. The -- the geographic information, or you've heard it referred to as GIS software. It's -- I use ArcGIS 9.1. It's the -- I'm told it's the most widely used geo -- geographic information software, at least in North America.

MR. ALLAN FORAN: Okay. And any -- I take it, however, that although there might be a computer program, there is certain subjective allocations that need to -- to be involved in -- in mapping.

You, for example, would have to allocate certain payday loan outlets to certain income areas as one example?

MR. JOHN OSBORNE: I -- I'd have to allocate what?

MR. ALLAN FORAN: Payday loan outlets, so -- I'll give you one example. If -- if you had a choice between allocating a payday loan outlet to one income area or another, that would be a subjective thing that you would make a decision on to portray it on maps, correct?

MR. JOHN OSBORNE: I don't know if I ever said this payday loan belongs to this neighbourhood specifically. I said it would either -- sometimes it's located right in the neighbourhood and sometimes it was on or bordering. Same with the inner-city boundary.

I either said they're either inside the -- the neighbourhood or on the -- on the border of it. Many of the payday lenders are located on -- on divisions between neighbourhoods and so on.

So they don't belong to Wolseley or any particular neighbourhood. But they -- they border it, and I've made mention of that.

MR. ALLAN FORAN: So let me break that down into -- into two (2) components.

The first is the electronic mapping system didn't do any allocation, for example. It simply allowed you to place a payday loan outlet on a map.

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: And any analysis then with respect to whether a payday loan outlet was in a certain income area of the city or a different income area of the city was performed by your team.

And that would be Dr. Carter, yourself and Ms. Friesen?

MR. JOHN OSBORNE: Yes, correct.

MR. ALLAN FORAN: Now in preparing for this assignment, were you given a thesis? Did somebody say, Here's what we're going to attempt to do when we perform our research? And now I'm -- I'm going to be specific now to -- to your role.

MR. JOHN OSBORNE: Was somebody -- like -- like by thesis do you mean --

MR. ALLAN FORAN: "We believe payday loan lenders prey on the poor." Did somebody say, for example --

MR. JOHN OSBORNE: No.

MR. ALLAN FORAN: -- let's go in and map -- let's go in and map that and see if we can -- if that turns out on the map?

MR. JOHN OSBORNE: I -- I think you'll

see it in our introductory statements. We started with a hypothesis that we wanted to look at if -- I -- I bel -- we wanted to look at -- a -- a hypothesis that -- it was whether or not payday loan firms spatial patterns seem to be similar to that of -- of areas of -- of vulnerable neighbourhoods. Or -- or whatever the -- we -- we used the term "vulnerable," possibly, yes.

MR. ALLAN FORAN: Okay, and was this a written presentation? And I'm using perhaps words that -- that you've -- you've said "hypothesis." I've used the word "thesis." It's -- it's the same thing?

MR. JOHN OSBORNE: It -- it was in the Buckland, et al, report. There was a -- a opening paragraph that -- oh, do -- do you want to -- yeah.

DR. JERRY BUCKLAND: If I could just add, there's different approaches to a -- a social science method. One (1) approach would be to state a hypothesis and then to test that hypothesis. So that's the way we treated this particular question.

The hypothesis was payday lenders disproportionately locate in lower-income neighbourhoods. So that was the hypothesis that we wanted to test. And then John went and gathered the data, inputted into the maps, and then we wanted to answer that hypothesis.

MR. ALLAN FORAN: Okay, I appreciate

that, and I don't know, I -- I was going to focus on Mr. Osborne, but certainly, Dr. Buckland, feel free to assist.

That hypothesis that there was a disproportionate number of payday lenders in one (1) area as compared to another, did that arise out of a group discussion? Or did that arise out of literature that you had assessed or analyzed previously?

Or was that a hypothesis that was provided to you by legal counsel?

DR. JERRY BUCKLAND: The -- the hypothesis is one that I think you'll find in the literature. And again, much of the literature comes from the US, so a lot of the studies in the US focus on this question of kind of location or spatial bias that payday lenders in -- in some studies or other types of fringe banks disproportionately locate in low income neighbourhoods.

So, yes, it was a hypothesis that we had seen in the literature, and then we wanted to test that for Winnipeg.

MR. ALLAN FORAN: Now, if I put it a -- a different way, Mr. Osborne, what you were tasked to do was to go out and -- and conduct research that would show that payday lenders tend to locate their storefronts in areas with lower household incomes?

MR. JOHN OSBORNE: My assignment, I guess, was to map their locations and to compare that to -- with various socioeconomic data that we -- that we used to give values to the neighbourhoods of Winnipeg, and then compare the -- the spatial patterns to the payday loan -- payday loan lenders outlet locations.

MR. ALLAN FORAN: Okay, and you used, as I understand it, 2001 census data of mean household income in plotting out your conclusions, correct?

MR. JOHN OSBORNE: 2001 data was not mean; it was median household income.

MR. ALLAN FORAN: Okay, and would you agree with me that that 2001 census data reflects income statistics for the year 2000?

MR. JOHN OSBORNE: Yes, that is correct.

MR. ALLAN FORAN: And did you ever consider using more recent census Canada estimates as opposed to 2000 data?

MR. JOHN OSBORNE: One thing, we are in a coalition that has data available at the neighbourhood level. Unfortunately, I've been told that the 2008 -- we -- we will not have the 2006 census data until 2008 or possibly 2009 at the neighbourhood level. This is a limit from Statistics Canada. We're -- we're trying to get it as quickly as we can.

MR. ALLAN FORAN: So you attempted to use the most accurate data possible, but your data goes back to the year 2000, correct?

MR. JOHN OSBORNE: That is correct. I had discussed this Dr. Carter before he left and, unfortunately, it is a 2000 data. One question I specifically asked him -- I don't know if I can speak for Dr. Carter?

MR. ALLAN FORAN: I'll tell you, you can speak for him, but he can speak for himself and correct it later if --

MR. JOHN OSBORNE: Oh, great.

MR. ALLAN FORAN: -- if it's not correct.

MR. JOHN OSBORNE: Yeah.

MR. ALLAN FORAN: So please go ahead.

MR. JOHN OSBORNE: Okay. One -- one thing I asked him was that, you know, This is 2001 census data. This is based on 2000 income. It's not as up to date as the 2000 -- 2006 data would be, which we really would have liked to have had to work with.

And my -- my question to him was: What sort of special differences are you going to see? What sort of patterns will you see in, for instance, the low-income incidence, the median income, even the percentage of high school completed?

And he is the Canada Research Chair on Urban Change and Adaptation, so I think he speaks with some weight. And he -- you might see some changes in -- in a few values, but the overall pattern of -- of what is occurring in Winnipeg, I don't think that we're going to see this -- well, I think Dr. Buckland also spoke about stagnation of lower incomes.

You'll -- if you look at some of their literature on the inner city and the state of Winnipeg's inner city, you'll still see vulnerable populations patterns emerging that are -- that are being concentrated in -- in patterns that would -- would be similar and representative in -- in the -- in the maps that I've created for the Board.

MR. ALLAN FORAN: So, for the purposes of accuracy, you would have liked to have used more current information, correct?

MR. JOHN OSBORNE: It's -- it's not -- it's not available. This is the most current information available to us.

MR. ALLAN FORAN: My understanding is Stats Canada publishes estimates anyway?

You're aware of that, sir?

MR. JOHN OSBORNE: They may publish

estimates annually, but as -- is that at a neighbourhood level of --

MR. ALLAN FORAN: Census information, mean estimate of income...?

MR. JOHN OSBORNE: At -- at what geography are you...?

MR. ALLAN FORAN: Why don't we start with Canada-wide? Sure. Go ahead.

MR. JOHN OSBORNE: Canada-wide, I'm not sure how valuable that would be on a neighbourhood discussion. But --

DR. WAYNE SIMPSON: In another -- another research life I -- I did work on census data down to census tracks. And I -- I think the issue here is the geographical detail, and the Census Canada -- or Statistics Canada does release census information as it prepares it from the 2006 census.

But they wouldn't have information at the census track level, which is what we would need to provide the detailed mapping information that he's -- that he's doing.

MR. ALLAN FORAN: Okay. And my understanding is that some firms do keep track of that information on a more local geographic basis.

Would you be aware of that?

DR. WAYNE SIMPSON: No.

MR. ALLAN FORAN: So if a business, for whatever purpose, was conducting updates from the year 2000 on a more local basis, you wouldn't be aware of that?

DR. WAYNE SIMPSON: I can't -- I can't -- there, I would defer it to the geographers.

MR. ALLAN FORAN: But if that information did exist, you would agree that that would be the more accurate information to be used in describing information as to income in certain geographical areas, say in the Winnipeg inner city?

DR. WAYNE SIMPSON: Well, just one more point there. I would have to know more about how they collected the information, because I don't think they're collecting it in the kind of fashion that come the comprehensive fashion that Statistics Canada would.

MR. BYRON WILLIAMS: Just for the -- to the fairness to the witnesses, Mr. Foran, in terms of that specific question, if you could indicate whether you're referring to more up-to-date Statistics Canada data by neighbourhood or if you're referring to another type? Just so my witnesses understand which you're referring to, sir.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Yes. And -- and I'll tell you that I don't intend to actually -- if -- if you have trouble with any question, please look to your lawyer, but feel free to participate grouply as well.

So, my question really is this: If a business conducted ongoing updates of information that provided it with income information that was, say, from the year 2006, you'd agree that that's more accurate than the information from Stats Canada from the year 2000?

MR. JOHN OSBORNE: I'm not sure what nature this information is you're talking about. I -- I -- without seeing it, I don't know how I can verify or how it was collected or -- or anything like that.

Is there a specific information data source you can point me to that I can check or...?

MR. ALLAN FORAN: One of the nice things about the process you'll find is that I get to ask the questions.

MR. JOHN OSBORNE: Oh, sorry.

MR. ALLAN FORAN: Except if I like what you say, in which case I may respond.

You don't dispute, Mr. Osborne, do you, that the vast majority of payday loan outlets in Winnipeg are located on or very near to major roads?

MR. JOHN OSBORNE: Yes. I would just like to clarify, then, if we've change topics.

My -- my boss, and -- and he's a professor of geography -- is the Canada Research Chair in Urban Change in Adaptation. And he considered the data sources that we used for the mapping to be very adequate for the purposes for the Board.

So again, I don't want to speak for him, but he is the expert in Canada Urban Change in Adaptation, so I will defer to his judgment.

MR. ALLAN FORAN: And my question, sir?

MR. JOHN OSBORNE: Can you repeat it once again?

MR. ALLAN FORAN: Yes, I can.

You don't dispute that the vast majority of the payday loan outlets in Winnipeg are located on or very near to major roads, correct?

MR. JOHN OSBORNE: Either on or very near major roads, I would say the vast majority.

MR. ALLAN FORAN: You would say the vast majority?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: You have no information, do you, Mr. Osborne, as to whether the clientele of any particular payday loan outlet is composed primarily of residents of the surrounding neighbourhood or Winnipegers who use major roads but don't live in the immediate area, do you?

MR. JOHN OSBORNE: No -- no information has been presented.

I -- I think that that would make very interesting spatial patterns, to map the location of where the customers are for each outlet, but I don't have access to that information.

The firms all have that information. They -- they -- as part of their -- their information they need to gather is often a utility bill that show the current address of their location. And I'd be very interested to see the spatial patterns of -- of where individual outlet customers are coming from.

MR. ALLAN FORAN: So, for the purpose of today's evidence though, you don't have that information, correct?

MR. JOHN OSBORNE: No. It's not available to myself.

MR. ALLAN FORAN: Now, in fact, the designation of what is or is what -- what is not a major road, to -- to come to that conclusion, you've relied on the work of DMTI Spatial, correct?

MR. JOHN OSBORNE: That is correct.

MR. ALLAN FORAN: And you did not conduct, or anybody in the Coalition did not conduct, any independent review or analysis of traffic patterns in areas where payday loan outlets are corrected -- are located, correct?

MR. JOHN OSBORNE: No, we did not.

MR. ALLAN FORAN: Now, you also didn't analyze any prevailing commercial rents in the areas where these outlets are located as compared with possible alternate locations, did you?

MR. JOHN OSBORNE: No. That would be from more of a industry, or a -- industry point of view.

I think we made it very clear that our point of view was from the consumers -- consumer point of view to show what sort of people are living in -- in neighbourhoods near these payday outlets.

I -- we made it quite clear, I thought, that we were looking from a consumer point of view and that things like accessibility, visibility, and so on are part of location, but it was not part of our analysis.

MR. ALLAN FORAN: Okay. And -- and the only reason I think I ask that is because my understanding is you've come to a conclusion with respect to a hypothesis that I thought you just described to me as being payday lenders locate in areas where more vulnerable people reside.

Did I miss that? Is that not correct?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: Okay. And so I just want to make sure that you understand that's why I'm asking these questions, sir.

So would you agree with me that factors such as rent might be a relevant consideration in determining a location to establish a retail business?

MR. JOHN OSBORNE: Yes. I think that was made in Dr. Robinson's evidence as well.

MR. ALLAN FORAN: And availability of commercial space is another relevant consideration in choosing to locate a retail business, correct?

MR. JOHN OSBORNE: I would -- I would assume so, yes. I -- again, I don't think my expertise was made in economic geography and retail location.

MR. ALLAN FORAN: You'd agree with me that accessibility to potential customers would be another relevant matter in locating a retail business, sir?

MR. JOHN OSBORNE: I believe I used -- we used the word in our report specifically of accessibility in both the report and my presentation of direct evidence, yes.

MR. ALLAN FORAN: And would you agree with me that exposure to potential customers beyond those residing in the media -- immediate neighbourhoods would be another factor for anyone choosing to locate a retail business?

MR. JOHN OSBORNE: It sounds very likely, yes.

MR. ALLAN FORAN: So I've been very reasonable in all those?

MR. JOHN OSBORNE: Yes. Yes.

MR. ALLAN FORAN: Now, in coming up with your mapping, Mr. Osborne, did you consider the spatial relationship between the various demographic factors of the neighbourhoods and commercial land use?

MR. JOHN OSBORNE: Commercial land use, land use, rents -- many of those things are definitely part of what -- what a -- what a firm would consider. But again, my -- our purpose of our mapping was not from the industry's point of view of location.

It was from a mapping of -- of outlets compared to characteristics of neighbourhoods as far as socioeconomic characteristics.

MR. ALLAN FORAN: I'll come back to this again, but -- but I think if I'm understanding you correctly, what -- what you're really doing is describing what exists rather than why?

MR. JOHN OSBORNE: Yes. That's -- that's maybe a short-term -- short-term way of saying it.

MR. ALLAN FORAN: Okay.

MR. JOHN OSBORNE: Shorthand.

MR. ALLAN FORAN: So it may not be surprising then to find a number of payday lenders in a certain area. If there's small retail spaces available in other parts of a neighbourhood, you might find them clustering in one area if that's where the commercial space is located, correct?

MR. JOHN OSBORNE: That could be one reason, def -- yes.

MR. ALLAN FORAN: Now, one of things that you mapped, Mr. Osborne, was the spatial relationship between bank branch closures and payday loan outlets, correct?

MR. JOHN OSBORNE: Yes, that was from the FCAC web site.

MR. ALLAN FORAN: Did you map spatial relationships between payday loan outlets and banks that are in operation?

MR. JOHN OSBORNE: No, we did not.

MR. ALLAN FORAN: Did you map the spatial relationship between payday loan operations and credit union branches in operation?

MR. JOHN OSBORNE: No, we did not.

MR. ALLAN FORAN: And perhaps Dr. Buckland would want to participate in this answer, but I -- I do understand from the evidence of the Coalition that there was no data available on the number of bank branches operating in various neighbourhoods.

You did not have access to that?

DR. JERRY BUCKLAND: Oh, we would certainly have access to it by simply, you know, going to the telephone book, walking around neighbourhoods. We -- we could do that. The hypothesis was, again, generated from literature from the US that certain types of fringe banks, including payday lenders and bank branch closures, tend to be concentrated in lower income neighbourhoods. So we were focused on a particular question.

MR. ALLAN FORAN: Okay, so you -- you had access to that data but did not use it in coming to the conclusions contained in your evidence, correct?

DR. JERRY BUCKLAND: The data that we collected to answer the -- the question -- the -- the hypothesis that payday lenders locate disproportionately in inner cities, we didn't think required to collect data on mainstream bank locations.

MR. ALLAN FORAN: Okay, so that wasn't

part of this report?

DR. JERRY BUCKLAND: That's correct.

MR. ALLAN FORAN: Now would you agree with me, Mr. Osborne, that without data on where open bank and credit union branches are located, information about branch closures does not give us a complete picture of the mainstream financial services available to neighbourhoods?

MR. JOHN OSBORNE: It doesn't give the picture of where current branches are. It -- it shows where branches have closed. That's -- that the was whole point of -- of -- of show -- of the data we wanted to show.

MR. ALLAN FORAN: Okay, and so really -- really rounding this out then, so we -- you had a hypothesis going in, you mapped out the location of payday loan branches, made certain conclusions, but didn't expand it beyond payday lending operations into mainstream financial service locations, correct?

MR. JOHN OSBORNE: No, we -- we didn't map the current locations of -- of bank or credit union outlets.

MR. ALLAN FORAN: And so the mapping won't allow us to make any conclusions about the location of payday lenders compared to the availability of mainstream financial services?

MR. JOHN OSBORNE: No, because they aren't represented. We didn't do that mapping exercise or analysis of it.

MR. ALLAN FORAN: One (1) of the maps that you provided caught my attention was on Figure 4, and actually a couple of different maps had this descriptor. But Figure 4 particularly, if I could just refer it to you, and that was in the initial evidence of September 17th, "Maps Payday Loan Outlet Locations and Neighbourhood Median Household Incomes."

Do you have that?

MR. JOHN OSBORNE: Yes, the median household income indicator, yes.

MR. ALLAN FORAN: And in preparing the map, you divided the map up into CPLA members and non-CPLA members.

Do you see that?

MR. JOHN OSBORNE: Yes, correct.

MR. ALLAN FORAN: Why did you do that?

MR. JOHN OSBORNE: To -- as far as information on firms, we had -- we had some choices of how we wanted to display the data. We could have given them all the same symbol and given all payday loan firms -- they could of all been blue dots on the map, let's say.

But this just gives us some more texture to the -- to the information, we've divided it into CPLA and non- CPLA members and also those representing the firms with the -- with the largest share in -- in -- of the market, from what I understand.

MR. ALLAN FORAN: Can you tell me what texture CPLA members provide to the mapping?

MR. JOHN OSBORNE: Well one of the things when we started the -- the -- the whole process of -- of -- of our study was the issue of rollovers and we weren't sure how big that issue would be. And we knew that the CPLA had certain -- I don't know what the right term is, ethics or -- or guiding principles and it's kind of a self -- self regulatory -- I'm not sure how to describe it -- self regulatory body within the industry.

So with -- we felt as a board that was quite an important texture to capture.

MR. ALLAN FORAN: You thought that was a good thing and you were trying to map that out somehow on the map to see if it supported one (1) hypothesis or another?

MR. JOHN OSBORNE: We -- we wanted to see the general location of -- of that -- to see if there were any -- any differences possibly with non-CPLA firms.

MR. ALLAN FORAN: Did you expect to find certain results based on your knowledge of the code of business conduct of CPLA compared to non-CPLA members?

MR. JOHN OSBORNE: I myself didn't have any such expectations.

MR. ALLAN FORAN: Was that part of the hypothesis at all that part -- part of what you needed to do was to map out CPLA's compared to non-CPLA payday lenders?

MR. JOHN OSBORNE: As -- as part of our hypothesis that we stated, no. That's not part of the hypothesis. This just gives some more information about the -- about the locations. Like -- like I said, I could have put a blue dot for all of them and given them -- these are payday outlets. But it -- a map is also capable of showing us the extra attribute data of showing where CPLA and non- CPLA firms.

As -- as the analysis found, one of the things I looked at was the location between inner city and non- inner city and one of the statements was that there seemed to be no real difference between whether non-CPLA or CPLA member firms were locating more or less in the inner city.

Again, that wasn't hypothesis, it was one (1) of the observations made from the -- the results.

MR. ALLAN FORAN: Okay. And again, I just -- I'm just asking the question because it's your map and I --

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: -- noticed that you divided it up into CPLA, non-CPLA members.

MR. JOHN OSBORNE: Yeah.

MR. ALLAN FORAN: But there's -- there's nothing that we can take from that? It just is what it is? It just describes a location and you haven't applied any methodology or conclusions or statistics to any CPLA member versus a non-CPLA member.

MR. JOHN OSBORNE: No, just -- just -- I think one of the -- the only time any CPLA versus non-CPLA difference was, was in that -- not a difference but -- but any time -- any comparison was made, there proved to be no -- no real difference. I believe, just over 50 percent of both CPLA and non-CPLA members locate in or -- or on the boundary of the -- of the inner city.

DR. JERRY BUCKLAND: Can I just jump in?

MR. JOHN OSBORNE: Sure.

DR. JERRY BUCKLAND: If I could just jump in. As John has said, what we were looking for is some more detail on the type of payday lenders that we were going to be mapping. We didn't go in with a particular hypothesis about differences between CPLA and non-CPLA, between single, big and multi-outlets.

What we were looking for is just to try to describe them more and see if we could observe any differences as we looked at the maps.

MR. ALLAN FORAN: And again, this is I think just a very non-contentious point but there was no statistical methods that you applied to the mapping, correct?

MR. JOHN OSBORNE: Just some basic descriptives of -- of inner city versus non-inner city and so no -- no statistical correlation or a significance was -- was done.

MR. ALLAN FORAN: And you focused on the City of Winnipeg. You didn't conduct any surveys outside the City of Winnipeg, did you, sir?

MR. JOHN OSBORNE: I didn't conduct any surveys outside?

MR. ALLAN FORAN: Did you map anything outside the City of Winnipeg, Mr. Osborne?

MR. JOHN OSBORNE: We have in Figure 1 -- or slide 1 of my presentation, a distribution province-wide of the locations. You'll see there's many communities of which Dr. Robinson recently spoke of, like single -- single payday loan outlet town I guess, if you want to call them that.

MR. ALLAN FORAN: And just -- you'll have to again help me with this. Did you apply any of those locations to economic factors? Did you map them out according to income levels?

MR. JOHN OSBORNE: City of Winnipeg is -- is rather unique in that it has these smaller geographies of neighbourhood designation broken down. These neighbourhoods often have a population that would probably exceed the -- or -- or say that, exceed the whole population of the town of Russell that -- that there's -- there's not the opportunity for breaking those smaller areas up into -- into smaller sections.

It -- it would be -- there -- there's not the -- the change as in Winnipeg. In Winnipeg you have some very wealthy areas in the southwest of Winnipeg which, where payday loan outlets are not found at all, and the inner city where there -- where there's a lower or -- or more vulnerable looking population, where -- where payday loan firms are concentrated, whereas in -- in Brandon there's not that -- there's not that gradient to the comparison at all. It's data.

MR. ALLAN FORAN: Okay. And I think you may have -- just one additional question: You used the word "unique." And I was going to ask you, unique compared to what?

So the city of Winnipeg information on income levels is more detailed than you could observe in other areas of the province?

MR. JOHN OSBORNE: It's unique in that Winnipeg can be broken into two hundred and twenty (220) neighbourhoods, whereas the other -- I don't know how you'd go about breaking Russell down. We don't have that information.

MR. ALLAN FORAN: And is that unique compared to other cities as well, or is this -- and I'm just still trying to understand your word "unique".

MR. JOHN OSBORNE: Oh compared to what -- compared -- compared to the smaller centres in Manitoba you can -- you can break Winnipeg down. Winnipeg is a city of six hundred and fifty some odd thousand (650,000), so that's divided into two hundred and twenty (220) neighbourhoods.

So there -- there's immense differences in -- in difference and -- and type of neighbourhood between a North End neighbourhood and one in the southwest of Winnipeg. Like I said, whereas I -- I am familiar with Brandon on an anecdotal basis, there is differences between say 18th Street and -- and 1st Street Brandon.

But it -- it's not at the -- at the level of analysis and are disposable for -- for Winnipeg, to show differences in the -- in areas.

MR. ALLAN FORAN: Could you, for example, map the differences in income levels between Winkler, Carmen, and Morten?

MR. JOHN OSBORNE: That's not really -- it -- it could be shown on a map. That sort of -- that could be just as easily displayed in a table. I don't think a map really gives it that much more visual -- imagine a table of Winnipeg neighbourhoods, and now look at the map.

It's very important to see the spatial pattern of the neighbourhoods, whereas Carmen and these other places, I think a table would be just as sufficient.

MR. ALLAN FORAN: Okay. And is that table located somewhere in the evidence?

MR. JOHN OSBORNE: No, that was not -- not --

MR. ALLAN FORAN: Not performed.

MR. JOHN OSBORNE: -- performed. No, because if there -- you want -- the purpose is -- is the differences within the community itself. That's what we were looking at, to see what's -- what were these communities composed of?

For the -- for Winnipeg it's possible to look at different neighbourhoods. But in -- in Steinbach you can't look within Steinbach and say -- there -- there might be an area where there are some nicer houses and some not so nice houses, but there's no -- we -- we have nothing to -- to compare that spatially with.

You -- you could maybe divide it in half (½), but I'm not sure what kind of accurate map that would depict for you.

MR. ALLAN FORAN: Without me counting them, you indicated there was two hundred and twenty (220) various neighbourhoods in Winnipeg. Are they all displayed on the -- on the maps that you've provided in evidence?

MR. JOHN OSBORNE: Yes. A significant number that -- a significant number -- number of them will appear in the grey, no data areas because they are not -- non-residential. Either they're either non-residential now or -- or were.

I think maybe -- there's maybe one (1) or two (2) neighbourhoods that actually have residential population now, so they'll start appearing as -- with data comparable on future censuses. But they may have houses there now and will appear in the 2006 census data, but didn't have a population to warrant the 2001 data appearance.

MR. ALLAN FORAN: Okay. A couple of references, just back to your evidence now, if I could, the original evidence of September 17th. On page 69 of the evidence --

MR. BYRON WILLIAMS: If we will just allow Mr. Osborne to have that with him, Mr. Foran, please, if you will?

(BRIEF PAUSE)

MR. JOHN OSBORNE: Yes, I've -- I've got page 69.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: And I just -- I just want to understand the word -- right under section 2, towards the bottom. It's the "City of Winnipeg Distribution of Payday Lenders."

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: And it has a conclusion, "there's a disproportionate number of payday lenders in the inner city of Winnipeg," and I just want to understand the word "disproportionate."

What -- what does that mean, really?

MR. JOHN OSBORNE: Did -- did you want to -- like, statistically speaking, over half (½) of the payday lenders are located in or on that -- that inner-city boundary, whereas the -- which is one-fifth (1/5) of the population. And if you look at just geographic area as well, that'd be a significantly less.

MR. ALLAN FORAN: Is part of your hypothesis going in, did it include the supposition that there was a need for this kind of service in the neighbourhoods that you then found payday lenders were actually located?

MR. JOHN OSBORNE: I don't think my expertise goes to need -- maybe you should --

MR. ALLAN FORAN: Is it possible then, Mr. Osborne, that payday lenders are located there because that's where the customer base is located?

MR. JOHN OSBORNE: They're -- they're loc -- let me -- they're located there because of the customer bases, that -- that could very well -- I would let -- again it would be interesting to see the spatial location of -- of particular outlets. Without seeing the actual location, I -- I can't verify where customers are.

But if -- if you look at what -- I would -- a question that comes to my mind is, why are there ten (10) or whatever outlets for a particular firm if they're not drawing a lot on local customers?

Why not just have a couple stores here or there that are very accessible, because I -- I would have -- like to see -- see the pattern of individual firms, but I -- I can't see that. I don't -- we don't have that information.

MR. ALLAN FORAN: And I -- I'm again curious. Did you do -- did you do anything -- and I'm assuming you didn't -- but did you do anything similar to other types of retail operations in those areas: gas stations, conveniences stores, anything else?

Or did you just focus on payday lending?

MR. JOHN OSBORNE: We -- we map payday lender outlets. I don't know why I would map gas station --

MR. ALLAN FORAN: Have you done any other retailer analysis in those areas?

MR. JOHN OSBORNE: Specific retail analysis in those areas -- I'm just trying to think of some of the projects I've worked on. I guess the -- most -- most of the projects I've worked on have dealt with housing and vulnerable populations of -- of the neighbourhoods.

MR. ALLAN FORAN: On page 70 of the evidence, towards the bottom under paragraph 3, "Winnipeg

Bank Closures."

Is that your statement that vulnerable inner city residents have experienced a significant reduction in traditional banking sector options?

MR. JOHN OSBORNE: I think that's the statement of our team for preparing the report.

MR. ALLAN FORAN: But you didn't check to see what other banking options were in those areas, did you?

MR. JOHN OSBORNE: That's not my area of expertise. I think Dr. Buckland addressed that a fair amount in his evidence.

DR. JERRY BUCKLAND: If I could just comment on that. We were basing that on the data that showed there was disproportionate number of bank branch closures in low-income neighbourhoods. I accept your point that we did not look at the remaining bank and credit union branches.

Previous research I have done focused on the North End of Winnipeg, which is in -- encompass within the inner city, and I believe is -- has faced similar situations as other inner-city neighbourhoods in Winnipeg. I've found that mainstream bank and credit unions have declined quite dramatically.

In fact I wrote a report back in 2003 that was simply titled "There Are No Banks," which was based on a qualitative survey that we undertook in the North End. And it was a comment that was made again and again by the residents in the North End where, in 2003, we counted five (5) mainstream bank or credit union branches, whereas in 1980 there were, I believe, twenty (20) or twenty-two (22).

And so, for that particular neighbourhood -- that particular component of the inner city we -- we have or I have done research on that -- on that question.

MR. ALLAN FORAN: Okay, and I'm just -- I'm just trying to understand the evidence that we've got in this Hearing, Dr. Buckland, and that you haven't changed any of the answers that Mr. Osborne's given me yet, have you?

DR. JERRY BUCKLAND: No, I haven't but there was a context in which this particular research was done but no, we did not collect data on existing branches.

MR. ALLAN FORAN: Thank you. One of the other points, Mr. Osborne, that I wanted to take you to is on page 73.

MR. JOHN OSBORNE: Yes?

MR. ALLAN FORAN: And it won't surprise you that what caught my attention is in the first full paragraph and that's the -- the notion that there are some limitations with respect to the analytic method that was utilized here?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: And then you -- you fairly have described them from your perspective? This is your description, sir?

MR. JOHN OSBORNE: Our perspective I guess, our team's perspective.

MR. ALLAN FORAN: Okay. And -- and again when I use the word "team" primarily that's Dr. Carter, yourself, and Ms. Friesen insofar as it relates to the mapping?

MR. JOHN OSBORNE: Dr. Buckland was a very important part of the team.

MR. ALLAN FORAN: Okay. About halfway down that paragraph there's -- there's a statement that relates to a certain demographic of age, as I understand it, and it's a population age fifteen (15) to thirty-four (34)?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: And there's a notion that they're not necessarily disadvantaged but still a frequent user of payday loan facilities, correct?

MR. JOHN OSBORNE: Yes, that's -- that's

there.

MR. ALLAN FORAN: And does the mapping somehow break down customers that use payday lenders into this demographic fifteen (15) to thirty-four (34) as compared to the specific branches located in the inner city?

MR. JOHN OSBORNE: Fifteen (15) to 30 -- again, this is an issue that Dr. Buckland has the expertise on. He --

MR. ALLAN FORAN: He's chomping at the bit but I'm not going to ask him to answer that quite yet but -- but could I just ask you --

MR. JOHN OSBORNE: I understand that the age fifteen (15) to thirty-four (34) is -- is -- it was presented here as well as an important -- important from -- from more of the -- the industry, like as a -- as a user of -- of payday loan services and that's outside my area of expertise. I've mapped the locations.

MR. ALLAN FORAN: Okay. Then I -- I will turn to Dr. Buckland and my question then really relates to this, where it concludes they're not necessarily disadvantaged. I'd like to focus on that for a moment.

Is that analytical or is that something we find from statistics? What makes them disadvantaged or not, that specific age group?

DR. JERRY BUCKLAND: That particular variable was chosen not because of any connection with disadvantage or low income but because of the data that we were learning from Dr. Simpson's analysis of the survey on financial security and the other data sets that were suggesting that it is a young -- a younger age group seem to be using payday loans at a greater rate than -- than one would expect or than -- than other age groups.

So, it was simply to look at -- map the payday loan locations both in terms of the percentage of the neighbourhood population that fit that age bracket and then the absolute number of that population that fit different age brackets.

And -- and I think as I said in the presentation on Thursday, we didn't find a significant kind of spacial correlation just by kind of eyeballing the data because we didn't do statistical analysis. We didn't find that kind of close connection as we had with the -- the low income and -- and correlated data.

MR. ALLAN FORAN: Okay. And is that -- was that part of the hypothesis going in, that there might be an age-related factor involved in locating payday lending operations in certain areas of the city as compared to others?

DR. JERRY BUCKLAND: It wasn't the

primary hypothesis. No, it -- it wasn't. It was something that I think I kind of forced John to add into his large set of tasks because I was hearing from Dr. Simpson and others about some other factors that might be interested -- that might be relevant.

MR. ALLAN FORAN: My recollection of your evidence, Mr. Osborne, was that there were at least three (3) other clusters of payday lenders that were located in the city; is that correct?

MR. JOHN OSBORNE: Yes, that's to do with the suburban malls.

MR. ALLAN FORAN: And did it surprise you that the other clusters were located at busy shopping locations?

MR. JOHN OSBORNE: Did it surprise me that --

MR. ALLAN FORAN: Did it? Yes.

MR. JOHN OSBORNE: I don't think I was surprised by anything. I didn't have any preconceived ideas I guess.

MR. ALLAN FORAN: Are you aware of what banking and credit union options are located at St. Vital shopping Centre, Mr. Osborne?

MR. JOHN OSBORNE: No, I'm not.

MR. ALLAN FORAN: How about the other two

(2) clusters? Are you aware of what banking or credit union options are -- are available there?

MR. JOHN OSBORNE: Just anecdotally, nothing I'd like to put into evidence.

MR. ALLAN FORAN: Was it part of your hypothesis that payday lenders locate where there are not banking or credit union financial institutions?

MR. JOHN OSBORNE: No. That was not part of the hypothesis.

MR. ALLAN FORAN: And that conclusion, in fact, hasn't been borne out by this map for those three (3) clusters, has it?

They are located where there may well be financial -- mainstream financial options, correct?

MR. JOHN OSBORNE: I suppose. I -- I don't have a map of the locations in front of me.

Like anecdotally, I think there might be -- I -- I don't go to those -- those malls, I guess, so I -- I'm not sure.

I -- I know that if we go to the map -- where is it -- number 3, you can see in some of those clusters some --

MR. ALLAN FORAN: Can I just stop you for one (1) moment. I'm sorry, just one (1) moment. Figure 3?

MR. JOHN OSBORNE: Slide -- I'm not sure what -- it's slide number 3 in -- in my PowerPoint presentation. "Winnipeg Payday Loan Locations and Financial Institution Closures Over the Past Five (5) Years."

So again, we didn't map the location of -- of banks, or credit unions, but you can see in -- in some of -- in some of the clusters, you'll see at one (1) cluster, it's not a mall, but in -- in Transcona, there's a couple of payday lo -- lenders that, for purposes of display, I had to -- I had to move the -- the bank closure out.

It looks like one (1) payday lender might even have moved into a building, or it's not po -- it's not out -- out of reason to -- to think that they're -- they're moving into where bank branches used to be. Right into those buildings, or -- or into mini malls right there as well, so.

MR. ALLAN FORAN: Okay.

MR. JOHN OSBORNE: If -- if you want to look at clusters like that, you'll see some instances where -- where payday loan branches seem to open up right next to a -- a former traditional bank branch, if not in the same actual building location, possibly the same strip mall, or same block.

So the -- that's what my maps show, because I -- I mapped bank closures, not existence of current to bank outlets.

MR. ALLAN FORAN: Okay. Mr. Osborne, the title of the paper that's been presented, and it's sort of a -- it's evidence that appears to be done in a -- in the form of a -- a paper, and that's the September 17th evidence.

MR. JOHN OSBORNE: Yeah, the serving, or the --

MR. ALLAN FORAN: Right. It's -- it's entitled Serving or Exploiting People Facing a Short Term Credit Cut Crunch.

Can you tell me what your conclusion is, sir? Do payday lenders serve or exploit?

MR. JOHN OSBORNE: I think that's well outside my expertise.

MR. ALLAN FORAN: Did you have any input into the titling of the paper?

MR. JOHN OSBORNE: No, I did not.

MR. ALLAN FORAN: Do you agree with the title? You put your name to this, sir?

MR. JOHN OSBORNE: I put -- put my name to it. I -- I am very proud of the work we did that went into this paper, and agree with our team's --

MR. ALLAN FORAN: I'm not disputing that. I'm just simply asking you for your conclusions on whether you have a position, and maybe -- you can tell me whether you do or you don't.

Based on your mapping, do payday lenders serve or exploit Manitobans, Mr. Osborne?

MR. BYRON WILLIAMS: My -- it's Mr. Williams here. My mic does not appear to be working right now.

MR. JOHN OSBORNE: Oh, I'm sorry.

MR. BYRON WILLIAMS: In terms of the question, if Mr. Osborne feels that it's within his area of expertise, he's able to draw that conclusion. Otherwise, it might be a question better directed to -- to Mr. Buck -- Dr. Buckland, but I'll leave that to Mr. Osborne.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: All right. Do you feel comfortable with my question, Mr. Osborne?

MR. JOHN OSBORNE: I -- I've heard a couple versions of it. Could you just repeat it? Because I was kind of surprised that you would ask my opinion on this, but...

MR. ALLAN FORAN: You've been offered up

as an expert, sir. You're sitting here in a Public Utility Board hearing.

Your name is on a paper that is entitled Serving or Exploiting People Facing a Short Term Credit Crunch.

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: You performed certain mapping of payday loan locations in Winnipeg, and came to certain conclusions with respect to location, and really my question is this:

Based on what you did for this project, have you formulated a conclusion whether payday lenders serve or exploit people facing a short term credit crunch in the city of Winnipeg?

MR. JOHN OSBORNE: I'm -- I'm happy to answer the question. I'm just not sure have I been qualified adequately for the Board? If you're happy to hear an answer, I will give it.

I'm just -- I -- I think there -- I thought -- I thought -- I was under the assumption that there was an important qualifying process and I'm not sure if I'm qualified to speak for you.

MR. BYRON WILLIAMS: I would suggest that the question be directed to Dr. Buckland.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Okay. You'd feel more comfortable if somebody else answered that question, Mr. Osborne?

MR. JOHN OSBORNE: I -- I would be under the impression that the Board probably would because I don't think my qualifications entered before the Board allow me to speak to that.

MR. ALLAN FORAN: Okay. Fair enough.

MR. JOHN OSBORNE: If the Board would direct me to answer I would but I -- I don't know if that would -- I'm not sure of the processes here but...

MR. ALLAN FORAN: Ms. Friesen...?

MR. BYRON WILLIAMS: If I might, I don't expect to be speaking very much, Mr. Chairman, but I'd like to see why my mic's not working. I feel a little weird grabbing Mr. Foran's.

MR. ALLAN FORAN: He's referring to my mic.

MS. ANITA SOUTHALL: Only two (2) mics on at a time so perhaps the panel witnesses are remembering that as they answer questions, if you wouldn't mind just turning your mic off just to facilitate that? Thank you.

MR. BYRON WILLIAMS: And I do want to confirm that I was referring to Mr. Foran's mic.

(BRIEF PAUSE)

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Ms. Friesen, similar to my initial questioning of Mr. Osborne you worked with Dr. Carter in terms of going out and developing a method to attend at payday lending facilities in Winnipeg, conducting mystery shopping and gathering information on fees; is that correct?

MS. ANITA FRIESEN: That's correct but Jerry -- Dr. Buckland -- was the -- the lead in all -- the overall research.

MR. ALLAN FORAN: Okay. And so I just -- and I actually -- and I'm going to say this again. I -- I meant to start with Dr. Carter today just to get a sense because that -- this is the --

MS. ANITA FRIESEN: Okay.

MR. ALLAN FORAN: Would you disagree with me that the grouping, the natural grouping here of all the people on this panel though would be Dr. Carter, yourself, and Mr. Osborne? You would have worked the most closely together; is that correct?

MS. ANITA FRIESEN: I -- I would say we worked closer with Jerry -- Dr. Buckland --

MR. ALLAN FORAN: Okay.

MS. ANITA FRIESEN: -- than with Dr. Carter on this, at least on my component of it, the mystery shopping.

MR. ALLAN FORAN: Now, in his oral evidence Dr. Buckland indicated that mystery shopping was a new thing for your team; do you agree with that?

MS. ANITA FRIESEN: Yes, I agree for myself and John. The other mystery shopper had done it before.

MR. ALLAN FORAN: And this was the first mystery shopping project you were involved with?

MS. ANITA FRIESEN: That's right, yes.

MR. ALLAN FORAN: And this was the first mystery shopping project that you assisted in developing, Ms. Friesen?

MS. ANITA FRIESEN: That's right, yes.

MR. ALLAN FORAN: Did you have a hypothesis that you were provided going into the mystery shopping component of the research?

MS. ANITA FRIESEN: We -- can I discuss this briefly?

MR. ALLAN FORAN: I -- I don't mind. Go ahead.

MS. ANITA FRIESEN: Okay.

(BRIEF PAUSE)

MS. ANITA FRIESEN: Yes, it -- we didn't have a -- a working hypothesis, an idea of what it was that we would discover. We were simply going out with the mystery shopping to find our how accessible information was, how understandable it was from a customer's perspective.

(BRIEF PAUSE)

MR. ALLAN FORAN: Now, I also understand from Dr. Buckland's evidence that FCAC was a resource on the methodology that was used in conducting the mystery shopping, correct?

DR. JERRY BUCKLAND: If I could speak to that? I spoke with one (1) person about mystery shopping and learned about FCAC's approach, Financial Consumer Agency of Canada. They're responsible to do mystery shopping at mainstream banks in Canada to determine if banks are -- are following the Access to Banking regulations including, for instance, the willingness to open accounts to new account holders.

So they would go in and mystery shoppers would test whether or no banks were opening bank accounts with certain amounts of ID. So, I did have a conversation with FCAC, as well as a person at Environics who actually undertook the survey, the mystery shopping, although the question there was more on the risk associated with the mystery shopper.

MR. ALLAN FORAN: Okay, and do I take it then from -- from that -- that FCAC was approached because it undertakes mystery shopping to monitor banks' compliance, correct?

MR. JOHN OSBORNE: That's correct.

MR. ALLAN FORAN: Now in -- on several occasions when asked Information Requests, Ms. Friesen, relating to mystery shopping, the response -- and -- and certainly Mr. Williams can participate in this as well -- the response was that the Coalition had identified ethical restrictions on disclosing data that would identify specific respondents.

You're aware of that?

MS. ANITA FRIESEN: Yes.

MR. ALLAN FORAN: And was that something that these -- these ethical criteria, can you tell me how you structured this? Going into the mystery shopping you prepared some ethical criteria that would be applied to how you would conduct the mystery shopping and how it would be reported.

Is that correct?

MS. ANITA FRIESEN: Yes, Jerry Buckland was in charge of the application to the university for ethical approval. So he could speak specific -- to the specifics of that.

MR. ALLAN FORAN: Okay, and then maybe Dr. Buckland the -- the next question is this: The -- the ethical proposal in fax been produced.

You're aware of that, sir?

DR. JERRY BUCKLAND: Yes, I am.

MR. ALLAN FORAN: And that proposal that was prepared in May of 2007 indicated that the mystery shopping to be conducted was to involve some fringe banks. You're aware of that? Let me just -- I'll tell you what, let me finish the question and then you can comment on it.

DR. JERRY BUCKLAND: Yeah.

MR. ALLAN FORAN: Some fringe banks and an equal number of mainstream financial and insurance providers. Are you aware of that?

DR. JERRY BUCKLAND: I'm aware of that because that's the ethical protocol that I put through to the ethics committee at the university for my overall SSHRC grant, which is a grant I received from the Social Science and Humanities Research Council.

When I was approached to undertake mystery shopping for this project, I investigated whether I could use that same ethics protocol for the mystery shopping for this project. So, the understanding was that that would be appropriate because it was essentially the same process, but the objects would be different. I mean, it would not include an equal portion of both types of banks, however, for my SSHRC research it will indeed do so.

MR. ALLAN FORAN: So from the commencement, however, of -- of this process it was intended that this would be a comparative exercise; correct, payday lenders and mainstream financial institutions?

DR. JERRY BUCKLAND: For my SSHRC grant it is a comparative process looking at how fringe banks and mainstream banks are serving their clients, yes.

MR. ALLAN FORAN: And again, just to round this out, in your evidence I believe you indicated that the mystery shopping conducted in this proceeding for -- for the Board was a standalone project and not intended to provide a comparison between payday lenders and financial mainstream institutions.

DR. JERRY BUCKLAND: That's correct.

MR. ALLAN FORAN: You have peaked my --

my interest. Did you receive a grant then as part of the evidence that you have produced in this proceeding, is it based on grants that you received from third parties?

DR. JERRY BUCKLAND: I'm a little confused. If I can just back up a moment and clarify. Whenever a person gets a grant to undertake research at the university we're required to go through an ethical protocol. And I think most universities follow this same protocol. When I got my SSHRC grant, I went through a -- a protocol to -- to get my first year of research approved. And in that protocol I had mystery shopping. And so the ethics committee had approved a mystery shopping for the SSHRC grant. That's separate. That's another aspect of my work.

However, when I was asked to then undertake mystery shopping for this project, I -- I asked the ethics committee, I've already gone through the process of asking for approval for it -- for mystery shopping, can I apply that to this particular case but, yeah, there's -- there's no funding issue, I don't believe.

MR. ALLAN FORAN: Okay. And I -- again, I'm going to go back one (1) step. Could you just -- you probably have done this, but you could tell me what SSHRC is?

DR. JERRY BUCKLAND: SSHRC is the Social Science and Humanities Research Council. It's Canada's principal funding body for social science and humanities research projects. It's a major - major funding organization for university-based research.

MR. ALLAN FORAN: And again to -- to fill in this area, is the research that was performed, Dr. Buckland, by Ms. Friesen and yourself on mystery shopping going to be part of SSHRC?

DR. JERRY BUCKLAND: No.

MR. ALLAN FORAN: So the work that you performed here for the Board is completely standalone and independent and it's not going to appear in other presentations or work that you've received grants for?

DR. JERRY BUCKLAND: Well, I guess I -- I'm of the opinion that things that we learn from this research might be used elsewhere as a source of literature; in other words if I do other studies I would like to be able to reference or cite conclusions from -- from this.

MR. ALLAN FORAN: Fair enough, and -- and I think what I'm really trying to get to is the -- the intent and purpose of the mystery shopping in this proceeding and I think you've answered my question. Thank you.

The separate project that you're doing for SSHRC does it -- does it include mystery shopping of mainstream financial institutions?

DR. JERRY BUCKLAND: It does include, although I haven't begun that component yet.

MR. ALLAN FORAN: Okay. I'm just wondering, Mr. Chairman, if -- if perhaps this would be an opportune time for a break?

THE CHAIRPERSON: Very good, sir. Thank you. Would ten (10) minutes be all right, Mr. Foran?

--- Upon Recessing at 3:12 p.m.

--- Upon Resuming at 3:25 p.m.

THE CHAIRPERSON: Since we are not cross-examining Dr. Robinson right now, I guess you could begin anytime, Mr. Foran.

MR. ALLAN FORAN: Thank you, Mr. Chairman.

(BRIEF PAUSE)

CONTINUED BY Mr. ALLAN FORAN:

MR. ALLAN FORAN: Ms. Friesen, the -- the report cites two (2) articles from the 2004 volume of --

and I'm referring now to the initial report of September 17th -- but it cites two (2) articles from the 2004 volume of the Pharmaceutical Journal in support of the legitimacy of mystery shopping as a research methodology, correct?

DR. JERRY BUCKLAND: Those are documents that I provided, and -- and yes, we do refer to them.

MR. ALLAN FORAN: Okay. And the first of these articles by Jill Jessen (phonetic) also discusses the limitations of this methodology, correct, Ms. Friesen?

DR. JERRY BUCKLAND: Again, I'm the one that brought those articles forward, so I don't recall the full details of that particular article but, yes, it most possibly does so, Mr. Foran.

MR. ALLAN FORAN: Ms. Friesen, did you read those articles?

MS. ANITA FRIESEN: No, I didn't.

MR. ALLAN FORAN: Did you conduct -- and I -- as I understand it, this was the first time you've been in a position where you would be conducting mystery shopping, correct?

MS. ANITA FRIESEN: That's correct, yes.

MR. ALLAN FORAN: Did you look at any academic materials to assist you or prepare you for going out and conducting this type of an exercise?

MS. ANITA FRIESEN: I have, yes.

MR. ALLAN FORAN: What -- what did you look at, Ms. Friesen?

MS. ANITA FRIESEN: Well, from -- mystery shopping is a -- a form of participant observation which is very common and has -- was developed originally in the field of anthropology. And the type of mystery shopping that we were undertaking was more closely related to that than it was to the mystery shopping that is generally undertaken by a firm of its own employees and customers, yeah.

MR. ALLAN FORAN: Okay. I'm going to go back to you then, Dr. Buckland.

So there is a purpose to noting those articles in -- that I reference from the Pharmaceutical Journal in your evidence?

What was that purpose?

DR. JERRY BUCKLAND: The purpose was to provide some background documents on how mystery shopping is used today, in this case, to measure the quality of service provided in the pharmaceutical industry.

MR. ALLAN FORAN: Okay. And you're aware, sir, that in the first article that you cited in the evidence -- that's by Jill Jessen. And I'm referring specifically to page 44 of the footnote. It's footnote 28, and I'm just giving you that cite, because I'm going to tell you what -- we'd looked at the article.

The article contains the following statement, Dr. Buckland:

"What is recorded is the event in one (1) shop on one (1) day. Not only do we have a snapshot of an interaction between two (2) people that is false; one (1) person is lying and the data are decontextualized. As there may be circumstances within the shop on that day which affect the interaction, so to use the information for training is reasonable; to use it on its own to influence policy and future strategy is more debatable."

Were you aware of that cite in the article? Did you read that?

DR. JERRY BUCKLAND: I -- I read the article. It's been some time since I read it, so the quote that you've mentioned, I can't convirm -- confirm it's in there, but I certainly believe you.

And in terms of the -- the point that you're getting at, I -- I agree that there are limitations to any qualitative method, and the mystery shopping that we used was a qualitative method.

And, therefore, we don't try to claim that the results of our mystery shopping have a kind of a universal result. In other words, we can't say that all payday loans outlets and all payday loan consumers will have the same experience that our mystery shoppers did.

MR. ALLAN FORAN: And so in fact a snapshot that you provided as to mystery shopping at payday lending institutions in Winnipeg could well be false and decontextualized, correct?

DR. JERRY BUCKLAND: I don't believe it can -- I don't believe it's false, because with qualitative methods what we're searching for is a deeper understanding of a smaller number of interactions. And -- and so what we're able to do with a qualitative method, is get -- sort of dig deeper into relationship and understand it more clearly.

If -- if I could just add, FCAC, for instance does a different approach in their mystery shopping. When they go out and mystery shop banks, what they'll do is they'll -- I believe actually do a scientific sampling where they'll do the mystery shop in hundreds of -- of bank branches.

Now, theirs is -- is less qualitative and

I think more quantitative in its approach.

MR. ALLAN FORAN: Okay. And just following up on that. So you're not suggesting that mystery shopping done here was scientific, are you, compared to FC -- FCAC?

DR. JERRY BUCKLAND: I'm suggesting that the approach we took is consistent with social science methods of the qualitative approach. There are both qualitative and quantitative methods, and there's different purposes for using those different methods.

MR. ALLAN FORAN: That's a nice segue into the second article you cited, and that's the article --

DR. CHRIS ROBINSON: Mr. Chairman, would I have your permission to -- to also comment on that question by Mr. Foran since I have been qualified as an expert in qualitative research by the Board?

MR. ALLAN FORAN: My preference is not to. I -- I've heard Dr. Robinson's evidence for the first time. Perhaps it's something that will come up when we cross-examine Dr. Robinson, but Dr. Robinson, to my knowledge, didn't conduct the mystery shopping in this particular instance.

I believed Mr. Friesen did under the direction of Dr. Buckland. Maybe I was wrong on that?

DR. CHRIS ROBINSON: Well, unfortunately, you are partially. I was also contributing to that mystery shopping, to their direction, and I reviewed the material originally.

MR. ALLAN FORAN: Okay. Then I'll take my prerogative and say no, I don't want you to participate, Dr. Robinson.

MR. BYRON WILLIAMS: Certainly, from my -- my perspective, if the panel wishes to comment -- but at this point in time, there'll -- there'll be other opportunities to comment. So we'll -- we'll allow -- certainly from our perspective, the -- our witnesses will certainly want to assist the -- the Public Utilities Board in having a full understanding, recognizing Mr. Foran has a cross-examination to -- to conduct.

So at some point in time, certainly, if we feel that there's been some unfairness, we'll -- we'll share that in rebuttal or otherwise.

THE CHAIRPERSON: You have the opportunity to redirect. Okay, Mr. Buckland.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Thank you. So just where I was before Dr. Robinson provided his initial comment, the -- the second article, Dr. Buckland, that you referenced was by Pauline Norris (phonetic), and again maybe I should just confirm that was I cite that you put into this --

DR. JERRY BUCKLAND: That's correct..

MR. ALLAN FORAN: It contains the following statement, Dr. Buckland:

> "What can one (1) visit tell you about the performance of a pharmacy? Not much. One (1) mystery shopper visit is like seeing someone drive at a hundred and twenty (120) kilometres an hour on one (1) occasion and inferring from this that they are usually a fast driver. One (1) observation certainly cannot be used for comparing this pharmacy or driver with another."

Were you aware of that quote in that article, sir?

DR. JERRY BUCKLAND: Well, again -- again, its been some time since I read the article. I certainly trust that that's in there.

The -- the fact of the mystery shopping is that we -- we undertook twelve (12) mystery shops. There were twelve (12) outlets where we mystery shopped. And in the -- the first twelve (12) we had a rather long process of both inquiry and then probing. We had two (2) steps. And then on top of that, we had four (4) more mystery shops where the person undertook a loan.

In addition to that, in our fee collection process, we undertook several telephone calls, which I've described as quasi-mystery shops in the sense that what we asked Mr. Osborne to do was to, like the mystery shopper, portray himself in one way to learn about the fees and rules that were applied.

So we actually got quite a -- quite a bit of qualitative insight, including the twelve (12) basic mystery shops.

MR. ALLAN FORAN: It's uncanny. It's like you've read my cross-examination notes, and I only left the room for five (5) minutes.

So my next question, Dr. Buckland, is this: Eight (8) of the twelve (12) lenders who were visited during the mystery shopping exercise were visited only once, correct?

DR. JERRY BUCKLAND: That's correct.

MR. ALLAN FORAN: And so for those eight, (8) the exercise -- the exercise provides us with a snapshot of one (1) occasion, nothing more, correct?

DR. JERRY BUCKLAND: Yes, I think that's fair.

MR. ALLAN FORAN: For the remaining four (4) outlets, each of the stages of the mystery shopping exercise was performed only once, correct?

DR. JERRY BUCKLAND: For the other four, (4) we did both the -- the inquiry and probing, and then the loan, and then the extension visit. So there are actually two (2) other steps that took place after the initial --

MR. ALLAN FORAN: Okay, so --

DR. JERRY BUCKLAND: -- inquiry and probe.

MR. ALLAN FORAN: Okay, so three (3) steps for the other four (4)?

DR. JERRY BUCKLAND: Correct.

MR. ALLAN FORAN: Now, the Jessen (phonetic) article again -- I'm going to refer you back to that article -- it provides an overview on how to design a mystery shopping exercise. You're familiar with that? Correct?

You're -- you're familiar with how Ms. Jessen, in any event, believed it should be designed?

DR. JERRY BUCKLAND: Again it's been some time since I've read those articles. So I'd -- I'd need to, you know, quickly read up.

I think there are different approaches to mystery shopping. For instance, SA -- FCAC approaches it more quantitatively. We were approaching it more qualitatively.

MR. ALLAN FORAN: Okay, and -- and subject to check if, you know, if -- if you determine that what I've suggested to you is not accurate, simply let us know. I'm going to suggest to you that it provides an overview of how to design a mystery shopping exercise, okay, for the purpose of my next question.

It suggested it's prudent to use a researched -- research instrument that is a structured pro forma designed to be easily completed after the researcher has left the premises.

Subject to check, would you agree with me?

DR. JERRY BUCKLAND: I think that's a good way to do it, and that's how we actually did it. We had a very extensive set of questions that our shoppers had beforehand and questions that they would go in and ask and -- and then when they left the shop, they filled that out very quickly.

MR. ALLAN FORAN: Now the notes that had been disclosed, in fact, as a result of Information Request indicate -- at least from my perspective -- that they aren't set up as a structured pro forma.

In fact, the notes vary from location to location. Do you have any comments on that?

DR. JERRY BUCKLAND: I would like to know the particulars of the variation that you're speaking to. What we started out with was a set of questions, and I think the section in the report, "Serving or Exploiting," clearly, sort of, summarizes the -- the questions that we were asking, the steps that we took.

So there is the inquiry -- initial inquiry step. And that was basically, you know, I want to get a payday loan. What's involved? What are the basic things that I need to know?

And then the second step involved a series of questions where -- where we ask more detailed questions about specifics about the payday loans, like, What specifically is involved?

So we had this all worked out ahead of time, and then each shopper would go into the payday lender and -- and maybe take a few notes. But they didn't want to take too many notes, because that would identify that they were probably a little bit special kind of shopper. But when they left the shop, then they would report, very quickly, on their -- their sheet.

Now it could be -- I'm guessing here -- it could be that some of the variation that you saw was a function of -- of people writing down the answers rapidly, but -- but I'd really like to see the particular variation that -- that you're referring to before I could comment --

MR. ALLAN FORAN: Tab --

DR. JERRY BUCKLAND: -- more clearly.

MR. ALLAN FORAN: -- Tab 95, Information Responses, CPLA/Coalition-195.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: If Ms. McCandless will provide it and, I believe, both to Dr. Buckland and to Ms. Friesen, please?

(BRIEF PAUSE)

MR. ALLAN FORAN: Okay. You have those before you then. Those are the notes that have been produced in response to the Information Request to provide the mystery shopping information?

DR. JERRY BUCKLAND: Yes, we have them and I think both Ms. Friesen and -- and I will help respond to this question.

MR. ALLAN FORAN: Okay. On page 48 of the evidence, you indicate that following each visit, the mystery shopper wrote detailed notes about the experience and observations, correct?

MS. ANITA FRIESEN: That's correct, yes.

MR. ALLAN FORAN: And you'd agree with me that accurate and complete recording was one (1) important aspect of the mission that you were tasked to perform, Ms. Friesen?

MS. ANITA FRIESEN: That's correct, yes.

MR. ALLAN FORAN: When we look at Tab 95, so CPLA/COALITION-1-95, what appears to be the case is that only one (1) of the mystery shoppers specifically references the preset questions that were to be asked in the second stage of the mystery shopping.

Can you confirm that or do you disagree with me?

MS. ANITA FRIESEN: I'm sorry. I don't understand what you're...?

MR. ALLAN FORAN: The notes -- I -- all I have -- the only thing I can work off of are the notes that have been produced.

MS. ANITA FRIESEN: Yes.

MR. ALLAN FORAN: So when I reviewed the notes, only one (1) of the notes referenced the preset questions that were to be asked in the second stage.

Is there anything to suggest -- and by the way, perhaps you can come back tomorrow. I'm happy to have you go through them.

MS. ANITA FRIESEN: No, I'm -- I'm very familiar with the notes. Yes, mystery shopper Number 1, I believe you're referring to, that actually wrote the questions down with the answers directly afterwards.

MR. ALLAN FORAN: Right.

MS. ANITA FRIESEN: That's right, yes. That doesn't mean that the other two (2) did not.

MR. ALLAN FORAN: Right. We just can't tell from the notes, correct?

MS. ANITA FRIESEN: Well, you -- you find the answers in the notes. And this is a qualitative research method that is commonly used. It is often the case that a lot of information can be drawn from the way in which the conversation unfolds, and so it is also important to note that and to keep it as close as possible to the actual wording of the conversation.

MR. ALLAN FORAN: In --

MS. ANITA FRIESEN: And then you do the analysis, sorry, based on that of the answers to the questions.

MR. ALLAN FORAN: On at least one (1) occasion the notes indicate the individual forgot to ask some of the questions, correct?

MS. ANITA FRIESEN: That's right, yes.

MR. ALLAN FORAN: At least two (2) mystery shoppers did not record their experiences in the same manner. Would you agree with me?

MS. ANITA FRIESEN: I would agree, yes.

MR. ALLAN FORAN: Today, for the purposes of this evidence, would you agree with me, we have no way of verifying which questions were asked or not asked at each of the mystery shopping visits?

(BRIEF PAUSE)

MS. ANITA FRIESEN: I can provide you with those answers if you require. I believe that in the majority of the cases all of the questions were asked.

In many -- in some of the cases, they weren't given the opportunity to ask the questions either.

MR. ALLAN FORAN: And you know that from your personal experience in participating as a mystery shopper, correct?

MS. ANITA FRIESEN: That's right, yes.

MR. ALLAN FORAN: But you can't speak for the other mystery shopper that's not present?

MS. ANITA FRIESEN: I could confer with

her and get back to you on that if you wish.

MR. ALLAN FORAN: No, but --

MS. ANITA FRIESEN: There was -- there was --

MR. ALLAN FORAN: If she wants to appear to be examined because --

MS. ANITA FRIESEN: She -- she prefers to remain anonymous for specific reasons. She was also very ill during this time, and I think her notes may reflect that.

MR. ALLAN FORAN: Okay, some specific questions then about the documents at 95.

(BRIEF PAUSE)

MR. ALLAN FORAN: So when I turn to mystery shopping Number 1, one (1) of the comments that's made in the notes is that the mystery shopper was not impressed with an employee's advice that the fee to be charged was not interest, correct?

MS. ANITA FRIESEN: Yes, that's written in there.

MR. ALLAN FORAN: Yeah, you recall that?

MS. ANITA FRIESEN: Yep.

MR. ALLAN FORAN: Was there any -- was

there -- was there some -- do you know who Mystery Shopper 1 was, like -- and I don't want to pry if -- if it's confidential and I can't know, just tell me.

But my question really relates to this. The shopper being impressed or unimpressed with the description of the fees is not interest, is that something that there was a preconceived hypothesis on?

Was there a concern as to how the fees were being described? Was there a concern that they should be described as interest? Mystery Shopper Number 1 felt that it was important to note that that shopper was not impressed.

DR. JERRY BUCKLAND: One (1) of the -- the main purposes of the mystery shopping was to find out how accessible and understandable the information about payday loans was, including the fees. So we were looking for the fees to be provided in different forms, including a simple lump sum of all the fees and then an annual percentage rate.

MR. ALLAN FORAN: So that was one (1) of the criteria was whether the quality of the information to be received, partially, was dependent on whether the fees were given an appropriate name in the mystery shopping exercise?

Was that something that you went in to

test?

DR. JERRY BUCKLAND: The -- the main test -- I mean, the threefold test was, okay, is the -- Okay, here I am a mystery shopper. Is this information understandable? Like, can I understand the fees and the -- the total value of those fees?

What does -- what does this mean to me as a mystery shopper? And then is the fee information accessible? Like, are they giving me that information in a clear and transparent way so, in a way, that I know what the fee is?

And then thirdly, is the teller or staff person polite and responsive? So those were the third goal -- the three (3) goals.

MR. ALLAN FORAN: And would you agree with me that one (1) of the criticisms that the Coalition has presented in its evidence of -- in this proceeding from the mystery shopping is that the majority of lenders did not provide APRs which included all relevant fees during the inquiry visit?

DR. JERRY BUCKLAND: That is a concl -- a result from our mystery shopping, that the mystery shoppers were not generally provided that kind of information.

MR. ALLAN FORAN: And in order to

calculate an APR, it's necessary to specify the amount of the loan, correct?

DR. JERRY BUCKLAND: That's correct.

MR. ALLAN FORAN: And the specific term, correct?

DR. JERRY BUCKLAND: That's correct.

MR. ALLAN FORAN: And you'd agree with me that most, if not all the inquiry visits, in those instances, the mystery shopper didn't do either of those things, correct?

DR. JERRY BUCKLAND: Actually, in the probing stage of the mystery shop, we did have a -- we did have a specific question of a one hundred dollar ($100) payday loan.

MR. ALLAN FORAN: So if we took -- if we look at Attachment 1, can you point out to me, in that document, where it's noted that the questions were asked -- the APR question -- and what information was provided on the amount of the loan and the specific terms?

So that's Attachment 1.

DR. JERRY BUCKLAND: Which document are we referring to?

MR. ALLAN FORAN: I'm looking at CPLA/Coalition-195, Attachment 1.

(BRIEF PAUSE)

DR. JERRY BUCKLAND: Thirteen (13), fourteen (14), fifteen (15) -- we seem to be missing the first attachment. We're just looking for it right now.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: If I could just remind the witnesses to shut off their mic from time to time so I can -- it's off now, Dr. Buckland, so that if I do feel the need to chat, that would be helpful, thank you.

CONTINUED BY MR. ALLAN FORAN:

MR. ALLAN FORAN: So the series of questions, Dr. Buckland, are going to go like this. One (1) of the criticisms that's been levied by the Coalition relates to the lack of information provided on the APR. The information to get an APR needs to be provided to the payday lender by the mystery shopper in order to achieve that.

And I'm going to take you through the various attachments and ask you to confirm how we know that this, in fact, happened or to justify the criticism.

So Attachment Number 1, can you indicate to me, with some clarity, how we know the question was asked: What is the APR and what information was provided to get there?

DR. JERRY BUCKLAND: Okay. For -- just to back up one -- one moment here, I guess what we were, fundamentally, looking for was a -- a clear picture on the total cost. And so that could come in a lump sum or an APR.

In -- in the particular attachment that we're -- I believe that you're referring to, it's question Number 4 where we ask specifically: How much would it cost me to borrow two hundred dollars ($200)?

MR. ALLAN FORAN: How much will a payday loan cost me? Question 3, is that the...?

DR. JERRY BUCKLAND: We -- it says under question 4, "First-time loans are usually between..."

And it's blanked out.

> "No definitive minimum or maximum given. Again, just enter info into computer and it is decided."

Second point:

> "So I asked, how much would a two hundred dollar ($200) loan cost me? She did not know. I asked: Would it

cost me two hundred and fifty dollars ($250)? And she said that would be close."

MR. ALLAN FORAN: So how do we know that the question was asked? What is that in terms of an APR, and how do we know that the information was provided that would allow it to be calculated?

MS. ANITA FRIESEN: That was a case of the lender not providing an answer that could then be -- in order, to be able to ask what an APR was, there would have to be some understanding of the cost.

But that -- even the most basic information about how much the loan would cost was not provided. So to go to the next step would not be possible in that situation.

MR. ALLAN FORAN: Okay. And what about the term? Can you tell me where the term was indicated? I'm jut looking at the notes now.

MS. ANITA FRIESEN: The term?

MR. ALLAN FORAN: The term of the loan.

MS. ANITA FRIESEN: How many days?

MR. ALLAN FORAN: Yes.

MS. ANITA FRIESEN: That wasn't specifically one (1) of the questions that was asked.

MR. ALLAN FORAN: Attachment Number 2.

The same question. Can you indicate to me how the APR would be calculated without information relating to the term or whether the term was provided or where's -- where that's located in the notes?

(BRIEF PAUSE)

DR. JERRY BUCKLAND: Just going back to your previous example when we were not given the information on the two hundred dollar ($200) loan in terms of the total fee, isn't it the onus of the payday lender to, first of all, provide the fee and secondly, to ask what term you want the loan for?

So the fact that it doesn't appear in the notes, isn't that more a statement that the payday lender has not provided the information and asked the questions necessary to provide the full information -- is my conclusion.

(BRIEF PAUSE)

MR. ALLAN FORAN: I was about to break my own rule and almost answer the question.

Okay. I think, you know -- I'll tell you what I'd like to do. I'd like to suggest to you that in virtually each and every instance the information was not provided that would allow the APR to be calculated. Would you disagree with me?

DR. JERRY BUCKLAND: I think -- I think that's probably from -- I don't know about all of them but I think in most cases that is the case. Or -- or at least, it would have taken some time for the shopper to go away and figure it out.

MR. ALLAN FORAN: Okay. And so I hope you just agreed with me? Because if -- if you have, I can move along.

DR. JERRY BUCKLAND: Well, okay, let's talk about it.

MR. ALLAN FORAN: In most of the cas -- in -- in virtually all the cases, the mystery shopper did not provide sufficient information to allow an APR to be calculated, as reflected in the notes in CPLA/COALITION-1-95.

Would you agree with me?

DR. JERRY BUCKLAND: The payday lender didn't provide enough information in many cases for a total lump sum or APR to be easily calculated.

MR. ALLAN FORAN: I really don't -- I -- I -- and I mean this. I don't want to make this the focal point of the whole Hearing, but I simply want to get to, you know, the mystery --

DR. JERRY BUCKLAND: Yeah.

MR. ALLAN FORAN: -- shopping process. And you'd agree with me that in many instances, if not the -- the -- in almost all instances, there was not sufficient information provided to the payday lender -- and I've got your position as to what the payday lender should have done.

But you'd agree with me that the mystery shopper didn't provide the information to the payday lender whether prompted or not?

DR. JERRY BUCKLAND: Yes.

MR. ALLAN FORAN: Thank you.

(BRIEF PAUSE)

MR. ALLAN FORAN: Ms. Friesen, do I have it correct that part of the mystery shopping exercise was performed as a result of, at least, some preliminary structure by way of a visit that you paid?

So you would have gone off to a payday lending operation to sort of try it out to see what information may or may not be needed in order to advance us to the next step?

MS. ANITA FRIESEN: Yes, we did two (2)

preliminary trial runs.

MR. ALLAN FORAN: And in those runs, did you -- did you try out questions on APR and how much APR would look like if certain sums were borrowed over a certain period of time.

Do you recall?

MS. ANITA FRIESEN: No, we didn't do it in that way. The questions we asked are as listed in our evidence. And I believe it was something like, How much interest is charged and what would that work out to be on an annual basis? Yeah.

And so we did not ask what is the APR. And in cases where the lender indicated that there was no interest being charged, then there would be no point in asking what is the APR if they said that they weren't charging any interest.

MR. ALLAN FORAN: Ms. Friesen, one (1) of the things that's indicated in the evidence is that -- and I believe this comes from you -- is that payday loans are quite complex? That's your evidence?

MS. ANITA FRIESEN: They tend to be, yes, from -- the -- the concept is quite simple, but in order to understand, I believe, the calculation of the fees and -- and costs involved, that's quite complex. And also the when -- when exactly they have to be repaid and also what happens if you can't repay them, the exact process that's involved at that point.

MR. ALLAN FORAN: Ms. Friesen, do you agree with Dr. Robinson that EAR's are not a meaningful comparison?

MS. ANITA FRIESEN: I have no expertise whatsoever on -- on that.

(BRIEF PAUSE)

MS. ANITA FRIESEN: While you're taking a moment there, might I just add another point of clarification? The notes that were written up from the mystery shop, they do not include absolutely every single thing that was said in the course of the conversation.

And so there is information that we, as shoppers, provided to the lender that is neces -- not necessarily written in there because it is provided in the profile of the mystery shopper that is over -- an overall profile that was used.

MR. ALLAN FORAN: So you --

MS. ANITA FRIESEN: Does that help?

MR. ALLAN FORAN: It -- it helps. You made your best efforts, you tried very hard, but there's no question there's some holes in the documents, correct?

MS. ANITA FRIESEN: Those -- the holes that do exist are there for a reason. And that reason may be even more qualitative than we may have captured in our -- our writing. It may have been due to what seemed to be an unwillingness by the lender to provide information or in -- inability of the lawyer -- or lawyer -- lender to -- to get the message across, provide a clear understanding, that type of thing.

MR. ALLAN FORAN: Perhaps bit of the pressure of having people lining up behind you, is that--

MS. ANITA FRIESEN: Perhaps, yes. It -- it may have been -- there may have been some -- I mean qualitative research methodology cannot be perfect in all cases. There -- unless you've got a paper and pen in front of you, and you are allowed to follow the -- the -- what thirteen (13), fourteen (14), questions that we had specifically set out to be asked, it's a very difficult thing on the spot with a line up behind you to remember to ask absolutely every single question. I believe that we did a fairly good job.

And if you'll look at other mystery shopping studies, you'll see that that's the case. They are under similar circumstances. A mystery shopper does the best that they can at the time to remember exactly what you have to ask, but because of the course of the conversation and other things that are taking place at the same time there are times when -- or because information may have been implied by the lender or the person being asked other questions, it would seem redundant to ask the specific question again, or would look suspicious, or odd even in that circumstance.

MR. ALLAN FORAN: Yeah, I do sympathize. It's tough. You -- you're --

MS. ANITA FRIESEN: Mm-hmm.

MR. ALLAN FORAN: -- you're on a panel, you're surrounded by lawyers and consultants and we're asking difficult questions. But really at the end of the day the mystery shopping was conducted to provide the Board with a flavour of the experience. It's not meant to be scientific.

Would you agree with me?

MS. ANITA FRIESEN: It is scientific, absolutely. I think you're -- you're thinking of hard science. This is social sciences and this is absolutely a legitimate method and it was conducted --

MR. ALLAN FORAN: It's a legitimate method with limitations, that you'll agree with me -- I've identified some of them for example.

MS. ANITA FRIESEN: Just as somebody in the hard sciences can get a 100 percent on a paper, nobody will ever give you a 100 percent on a paper in social sciences, because there is a recognition that there is always some room for error in the social sciences.

MR. ALLAN FORAN: Were you graded on this assignment?

MS. ANITA FRIESEN: I wasn't, no.

MR. ALLAN FORAN: No.

MS. ANITA FRIESEN: But I probably would have been given a very high grade.

MR. ALLAN FORAN: I'm sure -- I'm sure you would of -- I --

MS. ANITA FRIESEN: But not a 100 percent.

MR. ALLAN FORAN: All right. If I could just maybe take a moment.

(BRIEF PAUSE)

MR. ALLAN FORAN: All right, just to come back to a couple of things, Ms. Friesen, just in terms of being in a payday lending facility did you, you know, and feeling a bit of the pressure with people in line -- and, you know, these -- these are questions that sometimes lawyers just, you know, we just throw them out there and so you can -- you can knock this out of the park if you want -- but is it the same if you're standing in a instant teller line and there's a lot of people and you're trying to remember your PIN number?

Is that the same kind of pressure that you felt?

MS. ANITA FRIESEN: I don't think I would compare them. They're not quite the same because in an instant teller line it's -- it's a very short transaction and as was recognized the -- the tellers do spend a considerable amount of time with each new client explaining the whole process or -- generally did -- quite -- quite a -- a length of time. And also -- well, I'll -- I'll just leave it at that.

MR. ALLAN FORAN: And one of the information requests I -- I actually -- I -- we -- we didn't really mean this to happen in terms of the question, but you did respond that from a personal perspective you've got some experience with financial -- mainstream financial institutions.

My recollection is that you had a -- is it a mortgage?

MS. ANITA FRIESEN: Yes.

MR. ALLAN FORAN: And did you sit down, and did you read every last word of that mortgage?

MS. ANITA FRIESEN: I did at the time.

MR. ALLAN FORAN: Do you recall much of it today?

MS. ANITA FRIESEN: Not too much, no. That was almost six (6) years ago.

MR. ALLAN FORAN: And so is it fair for me to suggest that at the time you received that sophisticated mortgage document, you had a good understanding and appreciation of what it contained, but over a period of time the recollection of what the terms were evaporated?

MS. ANITA FRIESEN: Yes.

MR. ALLAN FORAN: Mr. Osborne...?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: Another question for you, sir.

MR. JOHN OSBORNE: Sure.

MR. ALLAN FORAN: And it relates to whether you considered spatial relationships between income demographics and level of commercial/residential land use mix.

Did you do any of that analysis in terms of the evidence that's been provided to the Board?

MR. JOHN OSBORNE: No, we did -- we didn't use -- take land use into -- into part of the analysis, no.

MR. ALLAN FORAN: It's my paraphrasing of my evidence, but my -- I think you indicated there are certain -- some areas of the city, southwest Winnipeg, for example, that are wealthier the other areas of the city -- and -- just if -- if you just hold the thought for a second, my question really relates to that.

If you reside in one (1) of the wealthier areas you refer to, are you more or less likely to have commercial land use in your neighbourhood than somebody living in, say, the inner city? Do you -- do you have any observations on that?

MR. JOHN OSBORNE: You're -- you're asking about the urban forum of the city, if there's more commercial zoning --

MR. ALLAN FORAN: Yes.

MR. JOHN OSBORNE: -- near there? Land -- land use and commercial zoning isn't something that's studied very much. I do know that there are places that are of similar nature to where payday lenders are locating downtown in the southwest of Winnipeg where no payday lenders exist.

MR. ALLAN FORAN: Yeah, I mean, it's -- it's -- you'd agree with me it's almost -- you know, by -- it's almost obvious that you don't expect to find a strip mall in a backyard in River Heights, but you could certainly see a lot of commercial property in downtown Winnipeg, for example, correct?

MR. JOHN OSBORNE: That's true, but there are major developments of commercial activity in the southwest, if you want to key in on that specific area. That's not to say that the whole entire southwest of Winnipeg where there are no payday lenders is a homogenous area of just residential activity.

There are comber -- extensive commercial developments in those area.

MR. ALLAN FORAN: It's really more likely, though, to find that commercial use in areas that are not in the higher economic areas of the city, correct?

MR. JOHN OSBORNE: There -- there's more commercial activity occurring in the inner city; if that's your -- your question?

MR. ALLAN FORAN: Yes.

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: You agree with me?

MR. JOHN OSBORNE: Yes.

MR. ALLAN FORAN: Yes. Subject to the desire of the Board, I -- I could move onto to a new subject matter. It will come back actually to Ms.

Friesen and Dr. Buckland, at your will.

THE CHAIRPERSON: I think we will pick it up again tomorrow, Mr. Foran. Okay, we stand adjourned.

Oh, sorry --

MR. ANTOINE HACAULT: Sorry, I -- I just have one (1) request. We've seen some handwritten notes, but most of them have been try -- transcribed into a typed form and I'm wondering if the original handwritten notes can be produced with respect to these -- mystery shopping?

THE CHAIRPERSON: Mr. Williams...?

MR. BYRON WILLIAMS: I'll talk it over with the clients. One (1) -- one (1) -- or the clients -- the witnesses.

The one (1) concern I have just is a -- a time one, in terms of -- I know it took considerable amount of time to make sure that we -- even with the typewritten notes that we had edited out the documents, but I'll -- if I could, I'll chat very briefly with the -- the witnesses and I'll -- I'll provide the answer to Mr. Hacault and to the Board tomorrow morning.

THE CHAIRPERSON: Very good, Mr. Williams.

(WITNESSES RETIRE)

--- Upon adjourning at 4:05 p.m.

Certified Correct,

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Wendy Warnock, Ms.